

EXHIBIT C

Jacqueline Smith

December 15, 2010

Smith vs Co-Op Optical

Judy Jettke & Associates
586-783-0060

Page 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACQUELINE SMITH,

Plaintiff,

Case No.: 2:10-cv-13470-PJD-MAR
District Judge Patrick J. Duggan

vs.

CO-OP OPTICAL SERVICES, INC.,
a Michigan non-profit corporation,

Defendant.

DEPOSITION OF JACQUELINE SMITH

taken by the Defendant on Wednesday, the 15th day of
December, 2010 at 2000 Town Center, Suite 900,
Southfield, Michigan at 10:22 a.m.

APPEARANCES:

For the Plaintiff:

DANIEL D. SWANSON (P29288)
JESSE L. YOUNG (P72614)
Sommers Schwartz, PC
2000 Town Center, Suite 900
Southfield, MI 48075
(248) 355-0300

For the Defendant:

MARY PATRICIA CAULEY (P38548)
GARY W. FRANCIS (P64748)
Plunkett Cooney
38505 Woodward, Suite 2000
Bloomfield Hills, MI 48304
(248) 901-4000

Also present:

Marcelus Stepp
Ted Winiarski

Reported By:

Judy Jettke Vandebossche
CSR 1398
Certified Court Reporter
(586) 783-0060

Page 2

TABLE OF CONTENTS

JACQUELINE SMITH	PAGE
Examination by Ms. Cauley	4
Examination by Mr. Swanson	319
Reexamination by Ms. Cauley	325
Reexamination by Mr. Swanson	330
Reexamination by Ms. Cauley	331

EXHIBITS: IDENTIFIED

Def. #1 Complaint	32
Def. #2 12-10-09 Meeting Minutes	46
Def. #3 Yohannes Bolds Affidavit	50
Def. #4 1-29-10 Request for Leave of Absence	58
Def. #5 Photograph	66
Def. #6 Photograph	69
Def. #7 Photograph	70
Def. #8 Photograph	70
Def. #9 1-28-10 Request for Leave of Absence	72
Def. #10 1-29-10 Request for Leave of Absence	75
Def. #11 2-1-10 Request for Leave of Absence	84
Def. #12 FMLA Documents	87
Def. #13 2-1-10 Request for Leave of Absence	89

Page 3

Def. #14 Short-term Disability Claim	92
Def. #15 2-3-10 Email	94
Def. #16 Tenure Recognition Trip Information	142
Def. #17 2-24-10 Email	154
Def. #18 Emails	156
Def. #19 2-4-10 Email	157
Def. #20 2-3-10 Letter	164
Def. #21 Emails	168
Def. #22 2-8-10 Letter	170
Def. #23 2-15-10	171
Def. #24 2-1-10 Email	174
Def. #25 Document	182
Def. #26 2-22-10 Email	184
Def. #27 12-9-10 Email	202
Def. #28 1-12-10 Letter	238
Def. #29 1-31-07 Email	239
Def. #30 3-18-10 Letter	292
Def. #31 Sixty-page Document	298
Plif. #32 1-14-10 Letter	330

Page 4

1 Southfield, Michigan

2 Wednesday, December 15, 2010

3 JACQUELINE SMITH

4 HAVING BEEN CALLED BY THE DEFENDANT AND SWORN:

5 MS. CAULEY: Let the record reflect that this
6 is the discovery deposition of Jacqueline Smith, the
7 plaintiff in the matter of Jacqueline Smith versus
8 Co-Op Optical Services and it is taken pursuant to
9 Notice and agreement of the parties as to the time
10 and place and is intended for use for all purposes
11 under the rules of evidence and the Michigan Court
12 Rules.

13 EXAMINATION

14 BY MS. CAULEY:

15 Q Ms. Smith, we've met before, I'm Mary Cauley, I'm
16 the principal attorney on this matter.

17 I'm going to ask some questions of you
18 today. If you -- have you ever been deposed
19 before?"

20 A Yes, I have.

21 Q Okay. You probably know the basic rules. I'm
22 going to ask, I think, one of the really important
23 ones for the court reporter is that we not speak
24 over one another, that if I'm talking, you don't
25 interrupt and I'm going to try really hard not to

Page 5

1 interrupt you when you're speaking. And we'll work
2 on that because it's easier for her to take down a
3 good record.

4 Also, it's important that you answer all
5 questions verbally. A nod of the head or shrug of
6 the shoulders could be misinterpreted by the court
7 reporter and we don't want to misinterpret anything,
8 we want to make sure that you verbalize and we'll
9 help you with that.

10 A Okay.

11 Q If you need a break at any time, please just tell
12 me. This is not an endurance test, if you need to
13 get up and move around or need to use the restroom
14 or get something to eat or drink, just say so,
15 please.

16 A Okay.

17 Q If you don't understand a question that I ask, I'm
18 going to ask you please to ask me to either rephrase
19 it or repeat it so that you can understand it. Will
20 you do that?

21 A Yes.

22 Q Is it then fair to assume that when you give an
23 answer to a question, it's the answer you intended?

24 A Yes.

25 Q Okay. Are you taking any medication or are you

<p style="text-align: center;">Page 6</p> <p>1 suffering from any health circumstances that would</p> <p>2 interfere with your ability to tell the full and</p> <p>3 complete truth today?</p> <p>4 A No.</p> <p>5 Q Okay. Did anyone at Co-Op Optical ever subject you</p> <p>6 to sexual harassment?</p> <p>7 A Yes.</p> <p>8 Q Okay. Who?</p> <p>9 A Raymond Murphy.</p> <p>10 Q And tell me on what occasion. Was it more than one</p> <p>11 occasion?</p> <p>12 A No, just one occasion.</p> <p>13 Q One occasion. When did that occur?</p> <p>14 A That occurred this year in January, I believe.</p> <p>15 And what took place is that he came into</p> <p>16 my office by himself and he indicated that things</p> <p>17 will work out. I gave him a hug, we hugged and when</p> <p>18 he let go he grabbed my rear end.</p> <p>19 Q Who initiated the hug?</p> <p>20 A It was kind of what we always did so it was, it was</p> <p>21 not initiated by either person.</p> <p>22 Q Did you find the hug offensive?</p> <p>23 A No.</p> <p>24 Q And then you say he did what to your rear end?</p> <p>25 A He touched my rear end like this.</p>	<p style="text-align: center;">Page 8</p> <p>1 A Not to my knowledge.</p> <p>2 Q How many times did you do that for Mr. Stepp?</p> <p>3 A I don't remember.</p> <p>4 Q Was it more than one?</p> <p>5 A Yes.</p> <p>6 Q More than twenty?</p> <p>7 A I don't think so, no.</p> <p>8 Q More than ten?</p> <p>9 A Possibly.</p> <p>10 Q Okay. So maybe plus or minus ten, is that a fair</p> <p>11 estimate in your mind?</p> <p>12 A Yes.</p> <p>13 Q Okay. And how many times did you do that for Mr.</p> <p>14 Murphy?</p> <p>15 A I don't remember.</p> <p>16 Q Would it be about the same estimate, plus or minus</p> <p>17 ten?</p> <p>18 A Yes.</p> <p>19 Q And did you prepare those plates for Mr. Stepp and</p> <p>20 Mr. Murphy or for Mr. Stepp and Mr. Murphy's wives?</p> <p>21 A Usually Mr. Murphy's for himself and Mr. Stepp's</p> <p>22 wife, she was not feeling well.</p> <p>23 Q Okay. So you offered to put a plate together for</p> <p>24 them?</p> <p>25 A I offered maybe once or twice, other than that it</p>
<p style="text-align: center;">Page 7</p> <p>1 Q He grabbed it? You're making a grabbing motion that</p> <p>2 can't be recorded. You're showing me that he put</p> <p>3 his hand on your rear end, is that right?</p> <p>4 A Yes.</p> <p>5 Q On one cheek of your rear end?</p> <p>6 A One cheek.</p> <p>7 Q Okay. How long did it linger there?</p> <p>8 A Not long. I told him not to do that.</p> <p>9 Q So you said -- tell me what you said to him, what</p> <p>10 words?</p> <p>11 A I said don't do that.</p> <p>12 Q And did he then take his hand away?</p> <p>13 A Yes.</p> <p>14 Q Okay. Did he say anything to you?</p> <p>15 A No.</p> <p>16 Q How old is Mr. Murphy, do you know approximately?</p> <p>17 A About eighty-nine, ninety, I assume.</p> <p>18 Q Okay. Any other time when anyone at Co-Op, either</p> <p>19 with the Board or any of the employees sexually</p> <p>20 harassed you?</p> <p>21 A I feel by preparing food plates on a regular basis</p> <p>22 to be taken home was sexually harassment.</p> <p>23 Q For whom did you do that?</p> <p>24 A I did that for Marc Stepp, Raymond Murphy.</p> <p>25 Q Anyone else?</p>	<p style="text-align: center;">Page 9</p> <p>1 was assumed.</p> <p>2 Q So is it after you offered it once to put plates</p> <p>3 together for them once or twice, then you're saying</p> <p>4 it was assumed that you would do that?</p> <p>5 A It was asked sometimes.</p> <p>6 Q Okay. Did you feel as though you were being ordered</p> <p>7 by a board member to prepare a plate for them to</p> <p>8 take home?</p> <p>9 A Yes.</p> <p>10 Q Okay. And you felt that, well, did anyone ever say</p> <p>11 if you don't do this we're going to fire you?</p> <p>12 A No.</p> <p>13 Q Even imply that they would somehow take action</p> <p>14 against you if you didn't put a plate together for</p> <p>15 them?</p> <p>16 A No.</p> <p>17 Q Were you doing it as a courtesy for your board</p> <p>18 member?</p> <p>19 A At times.</p> <p>20 Q Sometimes you didn't want to do it, is that right?</p> <p>21 A Yes.</p> <p>22 Q Did you tell them no, I don't want to do that?</p> <p>23 A No.</p> <p>24 Q Okay. Did anyone on the Board ever tell you, you</p> <p>25 know, you shouldn't do that Jackee, let them do</p>

<p style="text-align: center;">Page 10</p> <p>1 their own?</p> <p>2 A I vaguely remember someone saying that, yes, yeah, I</p> <p>3 remember someone saying that before.</p> <p>4 Q Do you remember who that was?</p> <p>5 A Bernie Adams.</p> <p>6 Q Okay. And so you had a board member saying don't do</p> <p>7 it, let them do it themselves and did you --</p> <p>8 A That was after several times.</p> <p>9 Q So did you stop doing it then?</p> <p>10 A No.</p> <p>11 Q Okay. And why do you think you offered and then</p> <p>12 were assumed that you would put a plate together was</p> <p>13 a form of sexual discrimination or harassment?</p> <p>14 A More discrimination because we were the only women,</p> <p>15 no one else was ever asked, none of the other board</p> <p>16 members asked any other board member to prepare</p> <p>17 plates.</p> <p>18 Q Okay. You were the executive director, right?</p> <p>19 A I was the president and CEO.</p> <p>20 Q I'm sorry, thank you, you're right, president and</p> <p>21 CEO.</p> <p>22 Do you know of any male president or CEO</p> <p>23 of Co-Op who was asked to put plates together or not</p> <p>24 asked?</p> <p>25 A Would you phrase that again?</p>	<p style="text-align: center;">Page 12</p> <p>1 Q Okay. And did you -- was lunch served at those</p> <p>2 meetings?</p> <p>3 A Yes.</p> <p>4 Q Okay. And did anyone have a plate prepared for</p> <p>5 them?</p> <p>6 A No.</p> <p>7 Q Did Mr. Korth ever volunteer initially to prepare a</p> <p>8 plate for anyone that you know of?</p> <p>9 A I don't know.</p> <p>10 Q Okay. Vice president of marketing, would that mean</p> <p>11 that you would be there the whole time or just</p> <p>12 during the part where you were doing your report?</p> <p>13 A At that time, I was a member of the Board and I was</p> <p>14 there during the whole time.</p> <p>15 Q Okay. So do you know of any other, including Pat</p> <p>16 Korth -- is that C-O-R-T-H-E?</p> <p>17 A K-O-R-T-H.</p> <p>18 Q Thanks, that was for the court reporter.</p> <p>19 Never mind, I think we got the answer on</p> <p>20 that.</p> <p>21 All right. Any other examples of</p> <p>22 discrimination on the basis of, discrimination or</p> <p>23 harassment on the basis of gender that you</p> <p>24 experienced when you were at Co-Op?</p> <p>25 A Yes.</p>
<p style="text-align: center;">Page 11</p> <p>1 Q Yeah, badly done.</p> <p>2 A Yes.</p> <p>3 Q Do you think the only reason it was assumed that you</p> <p>4 would put plates together was because you were a</p> <p>5 woman?</p> <p>6 A Yes.</p> <p>7 Q Okay. And on what do you base that belief, it was</p> <p>8 only because you're a woman that you first offered</p> <p>9 and then later it was assumed that you would put</p> <p>10 these together?</p> <p>11 A My tenure on the Board, I have never seen or known</p> <p>12 of anyone to do that before.</p> <p>13 Q Have you ever seen another president and CEO who was</p> <p>14 male interact with the Board?</p> <p>15 A Yes.</p> <p>16 Q And who is that?</p> <p>17 A At that time it was, his name was Patrick Korth.</p> <p>18 Q Okay. And on what occasions did you see Patrick</p> <p>19 Korth interact with the Board?</p> <p>20 A During our board meetings.</p> <p>21 Q Okay. And were you there during each of those board</p> <p>22 meetings for the whole length of them?</p> <p>23 A Yes, I was mandatory.</p> <p>24 Q And what was your position at the time?</p> <p>25 A Vice president of marketing.</p>	<p style="text-align: center;">Page 13</p> <p>1 Q What?</p> <p>2 A Let me get my thoughts together.</p> <p>3 At one meeting around 2008 when the former</p> <p>4 city council was in office under the direction of</p> <p>5 Kwame Kilpatrick, it was stated after a meeting</p> <p>6 where we were sitting around the table by Mr. Stepp,</p> <p>7 he said if there were not so many damn women on the</p> <p>8 city council they could get something done.</p> <p>9 There's another occasion, I'm trying to</p> <p>10 think.</p> <p>11 Q But why you're sort of thinking on one side of your</p> <p>12 head, can we talk about this one?</p> <p>13 A Uh-huh.</p> <p>14 Q Let me get some follow-up on that. Who was present</p> <p>15 when Mr. Stepp allegedly made this comment?</p> <p>16 A John Trohimczyk, Bernice Adams, myself, if I'm not</p> <p>17 mistaken, Tom Turner was there and that's all I can</p> <p>18 remember.</p> <p>19 Q Okay. Have you ever heard Mr. Stepp make a similar</p> <p>20 comment about anything to do with Co-Op?</p> <p>21 A No.</p> <p>22 Q Okay. You said you had something else that you were</p> <p>23 thinking about, did you think of it?</p> <p>24 A Well, I went into the hospital one time and I had a</p> <p>25 telephone conversation with Mr. Stepp and I did not</p>

Page 14

- 1 tell him the reason I was in the hospital, however,
2 his comments were if you open your legs you can get
3 pregnant.
4 Q And when was this?
5 A It was around May 2008.
6 Q Eight or seven?
7 A It could be seven but I believe it was eight.
8 Q Okay. Anyone witness to this other than the two of
9 you on the phone?
10 A No, it was just the two of us on the phone.
11 Q And what did you say to him when he allegedly made
12 this statement?
13 A I didn't say anything, I just kind of held my breath
14 and chuckled to myself not to him and just let it
15 go.
16 Q Okay. What did you do when he allegedly said
17 if there weren't so damn many women on the city
18 council they could get something done?
19 A Nothing.
20 Q Any other examples of what you believe to be sexual
21 harassment or discrimination that you experienced
22 while you were at Co-Op from anyone?
23 A When Ken Morris was on the Board --
24 Q Ken Morris, that is.
25 A Ken Morris, M-O-R-R-S.

Page 15

- 1 Q I-S, I think.
2 A I-S, excuse me. I was never treated like he --
3 whatever he said always went through without any
4 questions. It seems like everything or not
5 everything, I'm sorry, many things that I posed to
6 the Board, there were lots of questions. To me,
7 that was a totally different meeting or meetings
8 than we had in the past.
9 The same thing happened with Patrick Korth
10 when he was, at one short period of time, CEO.
11 Q So because the Board asked you questions, you think
12 that's a form of sexual discrimination?
13 A Yes.
14 Q Okay. And your basis for belief that that was
15 generated or that was caused by a sexual animus
16 toward you is what as opposed to you raised things
17 that interested them, they want to ask questions?
18 I mean, why do you believe it was just because
19 of gender and not because of anything else?
20 A Sometimes the types of the questions.
21 Q Can you be specific?
22 A No.
23 Q All right. Is it fair to say then, the two reasons
24 why you think it was different with Ken Morris and
25 Pat Korth was number one, they were men and you're a

Page 16

- 1 woman, so that's the difference right there and
2 because of these types of questions that you can't
3 specify?
4 A Correct.
5 Q Anything else to form your basis of that belief?
6 A No.
7 Q Okay. Any other examples, sexual harassment or
8 sexual discrimination that you feel you experienced
9 by anyone at Co-Op?
10 A No.
11 Q Did you ever have sexual relationships with any
12 member of the Board?
13 A Yes.
14 Q With whom?
15 A Raymond Murphy.
16 Q And when was that?
17 A Thirty-five years ago.
18 Q That was before you were an employee here, is that
19 right? Employee at Co-Op?
20 A I'm sorry, thirty-two years ago.
21 Q Was it before you were an employee?
22 A No, I was an employee at Co-Op.
23 Q Okay. Was it consensual sex?
24 A Yes.
25 Q Okay. And do you base any of your allegations in

Page 17

- 1 this complaint on that act?
2 A No.
3 Q Okay. Did you ever have sex with anyone else at
4 Co-Op?
5 A No.
6 Q The Board members or employees?
7 A Charles Benson.
8 Q Okay. And when did you have sex with Charles
9 Benson?
10 A That was probably in the eighties, early eighties.
11 Q And you were both working at Co-Op then?
12 A Yes, we were both managers.
13 Q And where did that occur?
14 A In Ohio at a UAW event.
15 Q So just one time?
16 A That's what I recall.
17 Q And was that consensual sex as well?
18 A Yes.
19 Q Okay. Do you base anything in your complaint in
20 this matter on anything that occurred between you
21 and Charles Benson in Ohio in the early eighties?
22 A No.
23 Q Okay. Have you had sex with anyone else at Co-Op?
24 A No.
25 Q Okay. Other than the incidents that you've already

December 15, 2010

<p style="text-align: center;">Page 18</p> <p>1 recalled here involving Mr. Murphy, Mr. Stepp, do</p> <p>2 you allege that anyone else on the Board of</p> <p>3 Directors at Co-Op acted in a sexually</p> <p>4 discriminatory manner toward you?</p> <p>5 A No.</p> <p>6 Q Did Co-Op ever make a contribution to Janna</p> <p>7 Garrison's political campaign when she was running</p> <p>8 for president of the Detroit Federation of Teachers?</p> <p>9 A I want to say probably yes.</p> <p>10 Q Okay. Do you, in fact, recall a five-thousand-</p> <p>11 dollar contribution that you approved?</p> <p>12 A Yeah, you know what, I think yes.</p> <p>13 Q Okay.</p> <p>14 A Yes.</p> <p>15 Q And was that sometime after 2005 that that</p> <p>16 contribution was made?</p> <p>17 A I don't remember.</p> <p>18 Q Okay. If the records show that she was running</p> <p>19 after 2005, would you have any basis on which to</p> <p>20 dispute that?</p> <p>21 A No.</p> <p>22 Q Okay. And in 2005, Co-Op was placed under</p> <p>23 supervision by OFIR, is that right?</p> <p>24 A Yes.</p> <p>25 Q Okay. Who approved the five-thousand-dollar</p>	<p style="text-align: center;">Page 20</p> <p>1 ordinary course of business?</p> <p>2 MR. SWANSON: Let me just object to the extent</p> <p>3 that that calls for a legal conclusion as to what</p> <p>4 OFIR, as a governmental agency, may determine</p> <p>5 ordinary course of business under the statutes and</p> <p>6 regulations.</p> <p>7 MS. CAULEY: Fair enough, let me rephrase.</p> <p>8 BY MS. CAULEY:</p> <p>9 Q Okay. Did you understand that OFIR required</p> <p>10 permission, from 2005 until the time you left,</p> <p>11 required Co-Op to obtain permission to spend monies</p> <p>12 outside of the ordinary course of business?</p> <p>13 A I didn't understand it to be like that. We also</p> <p>14 gave Marc Stepp five thousand dollars.</p> <p>15 Q When did you give Marc Stepp five thousand dollars?</p> <p>16 A We gave Marc Stepp five thousand dollars because of</p> <p>17 his -- I'm not sure of the date, maybe 2005, 2006.</p> <p>18 Q For what?</p> <p>19 A For referring the American Axle or giving us a</p> <p>20 contact for American Axle.</p> <p>21 Q Okay. So --</p> <p>22 A So it was nothing out of the ordinary.</p> <p>23 Q So he brought some business in?</p> <p>24 A Yes.</p> <p>25 Q And he received some compensation for that, is that</p>
<p style="text-align: center;">Page 19</p> <p>1 donation to Ms. Garrison's campaign?</p> <p>2 A Two executives.</p> <p>3 Q What two executives approved that?</p> <p>4 A I'm sure my name was on one, I don't know who the</p> <p>5 other person was.</p> <p>6 Q Okay. Did it go to the Board, did you ask for</p> <p>7 permission from the Board to do that or inform them?</p> <p>8 Two different questions, first, did you ask</p> <p>9 them?</p> <p>10 A No.</p> <p>11 Q Did you inform the Board of the contribution?</p> <p>12 A No.</p> <p>13 Q Okay. Did you ask permission from OFIR to make that</p> <p>14 kind of a contribution?</p> <p>15 A No.</p> <p>16 Q Did you inform OFIR?</p> <p>17 A No.</p> <p>18 Q Would you agree that that kind of a contribution</p> <p>19 would not be something that would be incurred in the</p> <p>20 ordinary course of business under OFIR's use of that</p> <p>21 term?</p> <p>22 A Say that again.</p> <p>23 Q Would you agree that the five thousand dollar</p> <p>24 campaign contribution wouldn't be money spent in the</p> <p>25 ordinary course of business of Co-Op as OFIR defines</p>	<p style="text-align: center;">Page 21</p> <p>1 right?</p> <p>2 A It was excessive but I was told by the chairman of</p> <p>3 the board to approve five thousand dollars.</p> <p>4 Q Okay. And other board members occasionally got</p> <p>5 compensation if they brought business in to Co-Op,</p> <p>6 is that right?</p> <p>7 A No.</p> <p>8 Q Mr. Stepp is the only one?</p> <p>9 A To this point, yes.</p> <p>10 Q Okay, well, to the point in 2005 or 2006 whenever</p> <p>11 that happened, right?</p> <p>12 A Since my tenure, my tenure of CEO, I was under CEO,</p> <p>13 that's the only one that I can recall.</p> <p>14 Q Okay. That's different than giving money to someone</p> <p>15 with whom you did business for a political campaign,</p> <p>16 right? Giving money to a board member for bringing</p> <p>17 in business, do you see that as the same as giving</p> <p>18 money to a board member who does business?</p> <p>19 A We gave money, we had a PAC account, Political</p> <p>20 Action Committee.</p> <p>21 Q Uh-huh.</p> <p>22 A We took money from the PAC account and we made</p> <p>23 donations to different politicians that were running</p> <p>24 for office.</p> <p>25 Q Okay. The five thousand dollars that was given to</p>

6 (Pages 18 to 21)

Page 22

1 Janna Garrison did not come out of a PAC account,
2 did it?
3 A **I don't believe so.**
4 Q No. That came just out of the general checking
5 account, right?
6 A **Right.**
7 Q Okay. So that was done on your authority, is that
8 correct?
9 A **That was done, it was requested and I approved it,**
10 **yes.**
11 Q Okay. And it was requested by Ms. Garrison of you?
12 A **Yes.**
13 Q And you told your executive staff to do this, to
14 make it happen?
15 A **Oh, I'm sorry, let me turn this off.**
16 **(Whereupon an off-the-record discussion was**
17 **held.)**
18 **BY MS. CAULEY:**
19 Q The Detroit Federation of Teachers did business with
20 Co-Op, is that correct?
21 A **That is correct.**
22 Q Okay.
23 A **And brought business to us.**
24 Q Okay. Did Ms. Garrison win that campaign for which
25 you gave her the money?

Page 23

1 A **No.**
2 Q And do you think you used good judgement by spending
3 that money and not reporting it to the Board?
4 A **I was empowered to do that, yes.**
5 Q Okay. And did you believe that you were empowered
6 to spend that money and not report it to OFIR?
7 A **Yes.**
8 Q How many times did you have sex with Mr. Murphy?
9 A **It was until I found out he was married so I'm going**
10 **to say less than seven.**
11 Q Maybe it's easier to talk in terms of how long did
12 the relationship, the personal relationship last?
13 A **I found out he was married after about a month.**
14 Q Okay. What is your current age?
15 A **Fifty-five.**
16 Q So was that about a twenty-five-year difference
17 between the two of you, is that --
18 A **I didn't really know how old he was at that time.**
19 Q Okay.
20 A **I thought he was a lot younger.**
21 Q Okay. Did you continue to have a close, personal
22 relationship with Mr. Murphy after the sexual
23 relationship ended?
24 A **I told him we could be friends.**
25 Q And did you continue to have that relationship?

Page 24

1 A **Off and on. I just would pick out glasses for him**
2 **and talk, that's about it. Or he'd ask for**
3 **donations for his campaign.**
4 Q From the PAC?
5 A **From the PAC, yes.**
6 Q Ever give any donations to Mr. Murphy -- well, you
7 were an executive director when he was asking for
8 donations, is that right?
9 A **That's correct.**
10 Q Okay. On January 29, 2010, which is the day you
11 fired Mr. Winiarski, do you recall that day?
12 A **Yes.**
13 Q Okay. Why did you fire Mr. Winiarski?
14 A **Well, I had been thinking about it for a long time.**
15 **I found out that he was not reporting information**
16 **that was crucial to me, like meetings. He lied in**
17 **front of the Board, he lied to me and I no longer**
18 **needed his services. I was going to replace him**
19 **with someone else.**
20 Q Okay. And did you discuss that decision with anyone
21 before you executed it?
22 A **No.**
23 Q You don't recall discussion you had with Mr. Murphy
24 and Mr. Stepp in your office about firing him?
25 A **Yes, that was something entirely different. You**

Page 25

1 **asked me, to me you asked me the question why did I**
2 **fire him.**
3 Q Then I asked you if you discussed the firing of him
4 before you executed it with anyone.
5 A **I discussed the termination with Raymond Murphy and**
6 **Marc Stepp, yes.**
7 Q Okay. And isn't it true that you, during that
8 conversation, the three of you agreed that you
9 weren't going to fire anyone else at that point?
10 A **No.**
11 Q You didn't make that decision? You didn't make a
12 commitment to Mr. Stepp and to Mr. Murphy that you
13 weren't going to fire anyone?
14 A **No, I did not.**
15 Q Okay. So after they left the office, you then fired
16 Mr. Winiarski, is that correct? After Mr. Stepp and
17 Mr. Murphy left?
18 A **There's more to it but, yes, I did.**
19 Q Okay. Why don't you tell me what's more to it.
20 A **Well, there was a conversation that after what we**
21 **had learned about how he lied -- and I was going on**
22 **medical leave, I was told to take a two-week**
23 **vacation, come back and fire him by Mr. Stepp and**
24 **Mr. Murphy.**
25 Q Okay. And you said, okay, I'll do that?

7 (Pages 22 to 25)

Page 26

- 1 A No, I did not say that.
- 2 Q Okay. How did Mr. Winiarski lie?
- 3 A Mr. Winiarski did not inform me, Mr. Winiarski did
- 4 not inform me there was a crucial meeting that was
- 5 supposed to be taking place by the Department of
- 6 OFIR. That was not -- I asked him, I have asked him
- 7 in the past just generally how things were going.
- 8 He said things, he would make it as everything is
- 9 going, doing just fine.
- 10 Then I learned at a board meeting that
- 11 there was a meeting that at the end of the week with
- 12 some of the heads of the State of Michigan, the
- 13 Department of OFIR.
- 14 And first he said he informed me, then he
- 15 said he did not inform me in front of the board
- 16 members.
- 17 Q That happened in December, correct?
- 18 A I'm not -- yes.
- 19 Q Okay.
- 20 A Yes.
- 21 Q So why did you wait until January 27th or 29th to
- 22 fire him?
- 23 A Because Marc Stepp says he does not want to fire
- 24 anyone before Christmas.
- 25 Q Okay. So after Christmas was January 2nd or so?

Page 27

- 1 A I was --
- 2 Q How come you didn't fire him then?
- 3 A After --
- 4 Q Well, what happened that caused the firing on the
- 5 29th of January?
- 6 A We had so many meetings going on, there was so many
- 7 things that were happening within the office. The
- 8 discovery of a whole lot of other things started to
- 9 come about and we had an audit going on so it just
- 10 took around that time.
- 11 Q This was a financial audit that was going on at the
- 12 time?
- 13 A Yes, from the Department of OFIR.
- 14 Q Okay. And you thought it was a good idea to fire
- 15 the CFO right in the middle of a financial audit
- 16 with OFIR?
- 17 A No, the financial audit was, hopefully was going to
- 18 be over toward the end of that month. They had been
- 19 there for a while.
- 20 Q Okay. Well, on December 1st you had a meeting with
- 21 OFIR where you learned that there were some serious
- 22 concerns that OFIR had about the viability of Co-Op,
- 23 correct?
- 24 A I'm not, I'm not sure if it was December 1st, it
- 25 might have been.

Page 28

- 1 Q I think the records will show that.
- 2 A Okay.
- 3 Q Yeah. But whatever date it was, that first meeting.
- 4 A Okay.
- 5 Q If I'm wrong, then it will be whatever the right
- 6 date is.
- 7 A Also, he --
- 8 Q So you -- okay, I'm sorry, let me just follow up if
- 9 I could please with these questions.
- 10 A Okay.
- 11 Q You knew on December 1st that OFIR was looking very
- 12 carefully at Co-Op?
- 13 A Uh-huh.
- 14 Q And they were there doing an audit, that you were
- 15 doing weekly or biweekly reports to OFIR, is that
- 16 correct?
- 17 A Yes.
- 18 Q Co-op was, okay. And what I'm trying to understand
- 19 is, it strikes me as a little risky but I'm not a
- 20 CEO so you would know better than I, to fire a
- 21 financial, the chief financial officer in the middle
- 22 of financial issues at the company.
- 23 So did you think it was not risky, is
- 24 that --
- 25 A It was a matter of trust.

Page 29

- 1 Q Because you say he lied to the Board about some
- 2 meetings, right?
- 3 A Meetings and he also lied to me.
- 4 Q Well, how did he lie to you?
- 5 A He was not -- first of all, he told me that the
- 6 Board told him that he could not talk to me anymore.
- 7 I don't know if that was, to be honest with you, I
- 8 don't really know if that's a lie or not.
- 9 The air around the office gave me the
- 10 impression that I could no longer trust him.
- 11 Q Couldn't trust him personally or you couldn't trust
- 12 him to do a good job for Co-Op?
- 13 A Both.
- 14 Q Okay. What had he ever done to put Co-Op in danger?
- 15 A First of all, he revealed information that was
- 16 confidential to other people on the executive staff
- 17 and other people that were in the office that were
- 18 not executives.
- 19 Q And that was the information regarding the December
- 20 1st meeting with OFIR, correct?
- 21 A With Jim Gerber.
- 22 Q Yes. Is that correct?
- 23 A That's correct.
- 24 Q Okay. And you had ordered him and others at the
- 25 meeting not to say anything to anyone about that,

<p style="text-align: center;">Page 30</p> <p>1 that meeting, is that right?</p> <p>2 A It was none of their business.</p> <p>3 Q You didn't think the chief, the COO had a need to</p> <p>4 understand that the company was being looked at very</p> <p>5 carefully by OFIR?</p> <p>6 A No. He was in charge of operations, therefore, he</p> <p>7 had an assignment to try to make the operations</p> <p>8 department at a profitable center.</p> <p>9 We were having major problems in the lab</p> <p>10 with breakage, we were having major problems in the</p> <p>11 lab with trying to turn it around and also to try to</p> <p>12 find a way where we can come out and increase our</p> <p>13 RBC.</p> <p>14 Q Uh-huh.</p> <p>15 A And I had been discussing with him to find a way to</p> <p>16 close down part of the lab and just have the</p> <p>17 finishing particles to the surfacing area in the</p> <p>18 lab.</p> <p>19 Q You didn't think it was important for the Board to</p> <p>20 know what was going on with OFIR?</p> <p>21 A I was going to -- the Board was going to find out,</p> <p>22 yes, at the December meeting, at the board meeting I</p> <p>23 was going to tell them at that time.</p> <p>24 Q And what was the date of that meeting?</p> <p>25 A I believe the date of that meeting -- I'm not sure,</p>	<p style="text-align: center;">Page 32</p> <p>1 auditor and the door was closed?</p> <p>2 A No, that was his job.</p> <p>3 Q Okay. But you didn't ever tell anyone that?</p> <p>4 A No.</p> <p>5 Q Okay. So if someone says you said that they'd be</p> <p>6 lying?</p> <p>7 A Yes.</p> <p>8 Q Okay. Did you ever report to the Board that Mr.</p> <p>9 Benson had sexually harassed you at Co-Op?</p> <p>10 A No.</p> <p>11 Q Because it didn't happen, is that right?</p> <p>12 A That's correct.</p> <p>13 Q Okay. In your complaint you allege that the making</p> <p>14 of the plates, you know, the issue of food plates at</p> <p>15 board meetings occurred between 2008 and January</p> <p>16 2010.</p> <p>17 Are those accurate parameter dates?</p> <p>18 A I don't remember the start date or the end date,</p> <p>19 ma'am.</p> <p>20 Q Well, I guess we'd better take a look. Let's mark</p> <p>21 this.</p> <p>22 (Document Marked for Identification as</p> <p>23 Defendant's Exhibit No. 1)</p> <p>24 BY MS. CAULEY:</p> <p>25 Q With the exception of a squiggle on page two and a</p>
<p style="text-align: center;">Page 31</p> <p>1 I'm not going to guess.</p> <p>2 Q Okay. And you didn't think it was important enough</p> <p>3 to inform the Board right after the meeting with</p> <p>4 OFIR about what had occurred at OFIR or with any --</p> <p>5 A I thought it was important to inform the board</p> <p>6 officers first of all of the situation before I</p> <p>7 inform the entire Board and let the board officers</p> <p>8 deliver that to the Board with my -- with my</p> <p>9 presence and also Ted.</p> <p>10 Q Okay. Did you inform the board officers immediately</p> <p>11 after the OFIR meeting about what had occurred?</p> <p>12 A We were having a meeting soon, I was going to tell</p> <p>13 them at that particular time.</p> <p>14 Q Okay. So the answer is no, you didn't inform them</p> <p>15 immediately --</p> <p>16 A No.</p> <p>17 Q -- after the meeting? Is it --</p> <p>18 A The answer is no, as you said.</p> <p>19 Q No, you did not inform them?</p> <p>20 A Inform them.</p> <p>21 Q I just want to make sure --</p> <p>22 A Okay.</p> <p>23 Q -- it records accurately. Okay.</p> <p>24 Did you ever tell anyone that you fired</p> <p>25 Ted because you found him in the office with a state</p>	<p style="text-align: center;">Page 33</p> <p>1 squiggle on page four which I put there, is this, do</p> <p>2 you recognize this document?</p> <p>3 A Yes, this is the complaint.</p> <p>4 Q Okay. And you've seen it before?</p> <p>5 A Yes, I have.</p> <p>6 Q Do you remember when you first saw it? Let me ask</p> <p>7 it a different way.</p> <p>8 Did you see it before it was filed with</p> <p>9 the court?</p> <p>10 A Yes, I did.</p> <p>11 Q Okay. And did you read it at that time?</p> <p>12 A Yes, I did.</p> <p>13 Q And are all the allegations in here the truth?</p> <p>14 A Yes, ma'am.</p> <p>15 Q Okay. Direct your attention to paragraph sixteen</p> <p>16 which starts on page three and continues on page</p> <p>17 four, specifically the sub part C which is on page</p> <p>18 four.</p> <p>19 You allege there for nearly every board</p> <p>20 meeting between 2008 and January 2010, Raymond Mark</p> <p>21 (sic) and Marc Stepp requested that Smith make</p> <p>22 plates of food for themselves and their wives.</p> <p>23 First of all, you were requested to make</p> <p>24 plates of food for Mr. Murphy's wife, correct?</p> <p>25 A Right.</p>

Page 34

1 Q Okay, so that's incorrect.
 2 Then it alleges here that it happened
 3 between 2008 and January 2010. Does that refresh
 4 your recollection as to the dates when this occurred
 5 or do you still not know?
 6 A I don't believe I made anything in January 2010. I
 7 might have, I'm not sure.
 8 Q Okay. But it started in 2008?
 9 A About 2008, yes.
 10 Q Okay. How many board meetings occurred in 2008 and
 11 2009?
 12 A Several.
 13 Q What were the regular board meetings that were held
 14 normally?
 15 A Normally, there's four board meetings.
 16 Q Okay.
 17 A And then we were committee meetings.
 18 Q Okay. Do you have food for all the committee
 19 meetings?
 20 A Yes.
 21 Q Every one of them?
 22 A Yes.
 23 Q So does that help you guestimate how many times you
 24 made plates for --
 25 A Well, it got to a point where we just ordered plates

Page 35

1 to go, where we could, we were first using paper
 2 plates and trying to snap them together, put them in
 3 a bag. So I directed Armida to purchase, get those
 4 little plates that -- for carry outs.
 5 So I want to say that's several, several
 6 times.
 7 Q Okay. Did someone direct you to order those special
 8 carry-out containers?
 9 A No. It was just --
 10 Q That was your idea?
 11 A It was just easier.
 12 Q Okay. And you did that for anyone who wanted to
 13 take food home from the board meeting?
 14 A Yes. Some people made their own.
 15 Q Okay. Did you ever suggest to Mr. Murphy that he
 16 make his own?
 17 A No, they were my bosses.
 18 Q Did you ever suggest to Mr. Stepp that he made his
 19 own?
 20 A No, he was my boss, too.
 21 Q Did you ever off to make them for Bernie Adams?
 22 A No, she made her own.
 23 Q You never said, here, let me do that for you?
 24 A No.
 25 Q So did you ever offer for anyone other than Mr.

Page 36

1 Murphy and Mr. Stepp?
 2 A Maybe once or twice I saw Mr. John Trohimeczyk
 3 stumbling because he was on, he's partially
 4 handicapped.
 5 Q Uh-huh.
 6 A And therefore, I assisted him, so, yes.
 7 Q Okay. All right, now let me see.
 8 So you started as the CEO in 2003?
 9 A July 29th, July, I think July 27, 2003, yes.
 10 Q Okay. And did you have food at the meeting for the
 11 board members as early as 2003?
 12 A Yes.
 13 Q Okay. When did you first offer to help Mr. Murphy
 14 and Mr. Stepp with their plates?
 15 A Probably around 2008.
 16 Q Okay. Before that, did they take plates home of
 17 food?
 18 A Yes.
 19 Q And did they prepare them themselves?
 20 A Yes.
 21 Q Okay. Was there anyone who witnessed Mr. Murphy
 22 allegedly putting his hand on your rear end?
 23 A No one witnessed it, I told someone.
 24 Q Who did you tell?
 25 A I came out of the office and after Mr. Murphy was

Page 37

1 leaving my office I told Armida Parisi that he just
 2 gripped me.
 3 Q Uh-huh. And you believe that was in January, can
 4 you narrow it down in terms of the date?
 5 A We had so many meetings in January. The only thing
 6 that I know, it was before the meetings, it wasn't
 7 toward the -- maybe the middle, maybe the middle of
 8 the month and I am guessing.
 9 Q What was happening between the two of you that
 10 caused him to say it's going to be okay? Were you,
 11 was something upsetting you?
 12 A Well, a lot of things were upsetting me.
 13 First of all, this, I was being charged by
 14 my subordinates with doing things that were not
 15 true.
 16 I was going through a lot of different
 17 things and an investigation with the Board and IHOC
 18 committee that was formed.
 19 Blair McGowan was calling and writing
 20 letters to me that were very strong and very -- and
 21 not, well, I don't expect him to be friendly but
 22 they were strong and accusing me of certain things.
 23 He had also taken records out of the office that
 24 should be there.
 25 There was just a lot of things. Stress.

<p style="text-align: center;">Page 38</p> <p>1 The word was going around the entire</p> <p>2 company that I was, I was stealing money from the</p> <p>3 company on my credit card.</p> <p>4 So there was a lot of -- whooh, there was</p> <p>5 a lot of pressure on me around that time.</p> <p>6 Q And thank you for that. I guess I'm trying to</p> <p>7 understand at that particular moment, what caused</p> <p>8 Mr. Murphy to, what, what, were you --</p> <p>9 A I just told --</p> <p>10 Q -- just very upset --</p> <p>11 A I told him --</p> <p>12 Q -- with all this, is that it?</p> <p>13 A No, I told him -- he came into my office after the</p> <p>14 meeting. Thank you Jesus.</p> <p>15 He came into my office after the meeting</p> <p>16 and I was crying. That's what I remember.</p> <p>17 Q Okay.</p> <p>18 A And I'm -- so it was building up and then he may</p> <p>19 have initiated the hug, after I think about it. He</p> <p>20 says everything is going to be all right.</p> <p>21 Q Okay. So he's trying to comfort you, is that fair</p> <p>22 to say?</p> <p>23 A Yeah, he comfort me and then gripped me.</p> <p>24 Q Okay.</p> <p>25 A Uh-huh.</p>	<p style="text-align: center;">Page 40</p> <p>1 Co-Op Board that you had surveillance of employees</p> <p>2 both at their work and at their homes?</p> <p>3 A No.</p> <p>4 Q You were spying on employees, you never told anybody</p> <p>5 that?</p> <p>6 A No.</p> <p>7 Q So if anyone said that you said that, they'd be</p> <p>8 lying?</p> <p>9 A Yeah.</p> <p>10 Q Okay. See if you can recall a meeting that I</p> <p>11 believe occurred on December 10, 2009. It was a</p> <p>12 meeting of the salary --</p> <p>13 A Oh, yes.</p> <p>14 Q -- commission. That meeting rings a bell.</p> <p>15 Do you remember who was present at the</p> <p>16 meeting?</p> <p>17 A Yes.</p> <p>18 Q Who?</p> <p>19 A Bernice Adams, Marc Stepp, Janna Garrison, Raymond</p> <p>20 Murphy I believe and that was it. And myself.</p> <p>21 Q Blair McGowan?</p> <p>22 A No.</p> <p>23 Q Okay. What do you recall happened at that meeting?</p> <p>24 A This is the meeting that we wanted to give bonuses,</p> <p>25 if I'm correct. If I recall correctly, this is the</p>
<p style="text-align: center;">Page 39</p> <p>1 Q Did you consider that to be an act of sexual</p> <p>2 aggression when he --</p> <p>3 A The hug or the grip?</p> <p>4 Q The grip.</p> <p>5 A The grip. The grip was definitely sexual. I mean,</p> <p>6 you can tell if someone's hand has slipped or</p> <p>7 someone was purposely placing their hand on your</p> <p>8 rear end.</p> <p>9 Q So what did you take his intent to be? Understand</p> <p>10 you can't know what was in his mind, what did you</p> <p>11 believe his intent was by doing that? He wanted to</p> <p>12 get you into bed or --</p> <p>13 A I don't think he wanted to get me into bed, no. I</p> <p>14 think he wanted, he just took an opportunity to</p> <p>15 touch a person.</p> <p>16 Q Okay.</p> <p>17 A To touch a woman.</p> <p>18 Q Have you ever known him to do that before with</p> <p>19 anyone?</p> <p>20 A I've known him to flirt and talk to other women.</p> <p>21 Q Okay, I didn't ask that though. The touching, the</p> <p>22 grabbing, taking a chance to touch another woman?</p> <p>23 A I have never, I have never seen him touch another</p> <p>24 woman.</p> <p>25 Q Okay. Did you ever tell anyone at Co-Op or the</p>	<p style="text-align: center;">Page 41</p> <p>1 meeting that I wanted to offer bonuses to the</p> <p>2 executive staff.</p> <p>3 Q This is in 2009?</p> <p>4 A Oh, in 2009? Yeah, this is the same --</p> <p>5 Q Yeah, okay.</p> <p>6 A Yeah, it's the same meeting.</p> <p>7 Q Okay. And this is nine days after a meeting with</p> <p>8 OFIR when they informed you that Co-Op was in</p> <p>9 jeopardy?</p> <p>10 A OFIR did not inform me Co-Op Optical was in</p> <p>11 jeopardy.</p> <p>12 Q Oh. What did they inform you of?</p> <p>13 A Jim Gerber actually said that he was scheduled to</p> <p>14 come to Co-Op Optical but because, you know, we had</p> <p>15 made progress, that he had talked to Ken Ross</p> <p>16 whether to come or not, he said since you scheduled</p> <p>17 the meeting to go on and go out there.</p> <p>18 And that's when, and that's, that's what I</p> <p>19 remember.</p> <p>20 Q So you think the December 1st meeting was just kind</p> <p>21 of a routine, informational meeting?</p> <p>22 A December 1st, yes. And I felt that it was an</p> <p>23 informational meeting, he was not threatening to</p> <p>24 close Co-Op Optical down, he wanted to give Co-Op</p> <p>25 Optical a chance.</p>

Page 42

1 He also listed different things that we
2 could do to bring ourselves back into compliance or
3 to -- into compliance or to speed up the process.
4 Q Okay.
5 A And not only that, before he -- after the meeting he
6 stayed around and came back and gave us some more
7 advice. And at that time in the office, at this
8 December 1st meeting with OFIR --
9 Q Uh-huh.
10 A -- and Jim Gerber, that was Ted Winiarski, Larry
11 Gardiner, myself and Matt Groen.
12 So it was not, so I'm not sure if this is
13 the same, if you said the 10th, the 1st.
14 So that particular meeting was not, did
15 not -- and that's why -- and then I had it recorded
16 and I was going to read that to the Board of
17 Directors and tell them exactly. The officers, not
18 the directors, the Board of Directors officers of
19 what took place with, at the Jim Gerber meeting.
20 Q Okay. Well, let's -- we'll come back to the
21 December 10th meeting, let's stick with December
22 1st.
23 A I got, I'm confused.
24 Q Who prepared the minutes of that meeting?
25 A Matt.

Page 43

1 Q And did he record the meeting?
2 A He records -- I'm not sure.
3 Q Okay. Did you review the minutes before they were
4 finalized?
5 A I read the minutes and I did not make any changes
6 and I said this is accurate.
7 Q Okay. And so this, as far as you were concerned,
8 that January, I'm sorry, December 1st meeting of
9 2009 with OFIR was not really any big change from
10 what had been going on for the last four years with
11 OFIR?
12 Was it just kind of more of the same, more of
13 the same?
14 A No, I did not think that.
15 Q Okay.
16 A I took the meeting very seriously.
17 Q Okay.
18 A I knew that there had to be changes and changes had
19 to be made immediately in order for us to try to
20 come in compliance or show that we're trying very
21 hard to make the company, make our, bring up our RBC
22 up to three hundred.
23 Q What was the RBC in December 2009?
24 A The RBC in December 2009 I think was like, I'm not
25 sure but I think it was forty-seven.

Page 44

1 Q Okay. And it's supposed to be three hundred?
2 A Yes.
3 Q Okay. Anyway, okay, so then there was a meeting and
4 I'm going to show you these minutes in a minute
5 regarding the meeting I wanted to talk about and I
6 don't think it's the same one that you were talking
7 about.
8 A Okay.
9 Q And I don't want to mislead you so let's talk about
10 a meeting that you remember where you talked about
11 bonuses.
12 What happened at that meeting?
13 A Okay. I called the compensation committee, Mr.
14 Stepp is the chairman of that particular committee.
15 It was -- and I usually take the executive staff out
16 to dinner.
17 We had volunteered to take four percent
18 cuts from our salaries so as, out of gratitude, I
19 wanted to give them something for, you know,
20 decreasing their salary on their own. We said two
21 months or temporary but it had exceeded that.
22 I brought it to the Board, to the Board,
23 excuse me, I brought it to the compensation
24 committee.
25 They asked me what do I expect the year-

Page 45

1 end deficit to be, year-end profits to be. I said I
2 don't believe we're going to have any profits, I
3 think it's going to be anywhere from a hundred and
4 thirty to a hundred and forty thousand dollars in
5 deficit.
6 Mr. Stepp said that you want to give them
7 these bonuses and not a raise because this is a one-
8 time thing and not in the compensation, it's not
9 something that's ongoing.
10 I did not recommend compensation, they're
11 bonuses and I told him that he was correct.
12 The bonuses did not exceed three hundred
13 dollars. The lowest was a hundred and fifty
14 dollars, the highest was three hundred dollars and I
15 did not -- I submitted my papers but I did not place
16 any dollar amount on mine.
17 Q Uh-huh.
18 A And that's what that meeting was about.
19 The committee said that they'd have to
20 think about it, make a decision, bring it to the
21 full Board and then they made some type of voting, I
22 believe, on it, as I recall. It's been a long time.
23 Q Were those bonuses approved?
24 A No.
25 Q Did any member of the committee or any member of the

Page 46

1 Board ever express to you that they thought you had
 2 used poor judgement in asking for those bonuses?
 3 A Only one, Bernice Adams.
 4 Q Okay.
 5 (Document Marked for Identification as
 6 Defendant's Exhibit No. 2)
 7 BY MS. CAULEY:
 8 Q I'll show you what's been marked as Exhibit 2 and
 9 that's the meeting on December 10th to which I was
 10 earlier referring.
 11 A Okay.
 12 Q And I think you were maybe confused about them so if
 13 you take a minute to look at those and see if that
 14 refreshes your recollection about the meeting on
 15 December 10th.
 16 And by the way, the other meeting could
 17 have happened at the same -- I don't know but it
 18 doesn't say it here.
 19 A Yes, I remember this one. I think I had about
 20 thirty minutes to come up with this.
 21 Q Okay. Well, what do you recall about the meeting
 22 itself, how the meeting went?
 23 A Oh, it was very hyper. Charles Benson came in, was
 24 talking to Marc Stepp, trying to think of things to
 25 tell on me. That they had came up with a proposal

Page 47

1 to save money of the dollar amount here, total seven
 2 hundred and seventeen thousand dollars and they had
 3 been working on this without my knowledge.
 4 Q Okay. So --
 5 A And that, and there was a lot of arguing, bickering.
 6 It was not an organized meeting. There was a lot of
 7 hollering and screaming, a lot of conversations
 8 going on. It was chaos.
 9 Q Did you, were you first able to present your plan,
 10 that is, the closing of the retail location?
 11 A No.
 12 Q And the elimination of multiple --
 13 A No. The CFO and the COO and along with Larry
 14 Gardiner from LGA Associates and his assistant, I
 15 don't remember her name. But they came up, they had
 16 been working on this plan without my knowledge.
 17 And so what I was told was to go into my
 18 office and in thirty minutes come up with some type
 19 of plan.
 20 But even though I had directed them, they
 21 had showed me the pro forma but they did not show me
 22 this particular plan.
 23 Q Well, okay. Did you present your plan? The closure
 24 of Auburn Hills and --
 25 A What I could do, what I could do in thirty minutes,

Page 48

1 yes.
 2 Q Okay, you presented it. Did the Board ask you any
 3 questions about it?
 4 A Yes. Blair McGowan asked a lot of questions.
 5 Q Okay. And you answered them?
 6 A Yes.
 7 Q Was there yelling and shouting during that period?
 8 A There was always yelling and -- Blair always yelled
 9 and shouted at me. He was, he's a person that just
 10 didn't like me period.
 11 Q Okay. Did he call you names or was this in the way
 12 in which he was asking questions? What was the --
 13 A No, he told me to fetch a few documents and he used
 14 fetch. He was trying to push the CFO and the COO's
 15 plan and he just -- there were so many things that
 16 were said at that meeting, it's impossible for me to
 17 try to remember everything because there was so many
 18 conversations it lasted through the -- after the
 19 office had closed. So we were there throughout the
 20 night, through the, well, not -- through the
 21 evening.
 22 Q Okay. Do you know who prepared the minutes of this
 23 meeting?
 24 A Most of the recording was done by Matt.
 25 Q Matt wasn't at this meeting, was he?

Page 49

1 A I'm not sure, he doesn't, I'm not sure but this
 2 looks like something that Matt may have done. It
 3 looks like his form of writing.
 4 Q Well, if that -- wouldn't it indicate that he was
 5 present, in fact?
 6 A No, it doesn't indicate in a lot of the meetings he
 7 was present, he was just recording.
 8 Q Oh, okay. Do you recall the portion of the meeting
 9 where you stood up and called Mr. Murphy and Mr.
 10 Stepp motherfuckers?
 11 A No.
 12 Q And yelled at them?
 13 A I have never in my life called anybody that name,
 14 MF.
 15 Q Okay. And you didn't do it at that meeting then?
 16 A No, I did not.
 17 Q Okay. Did you run out of that meeting crying?
 18 A I probably cried because no one was listening to me
 19 and they were listening to Charles and I felt that I
 20 was being disrespected as the CEO.
 21 I didn't run out of any meeting. They
 22 asked me to be, if I needed to be excused and I said
 23 no. And I took a Kleenex and I wiped my eyes and
 24 continued on.
 25 Q Who is Yohannes Bolds?

Page 50

1 A Yohannes Bolds is the president and CEO of Take 1, a
2 nonprofit organization.
3 Q Okay. And you consider Yohannes Bolds a personal
4 friend?
5 A No, he's a business friend.
6 Q Okay. Is he the kind of person that you'd send
7 emails to if you got a joke or something or not in
8 that kind of a relationship?
9 A I have, yes, I have sent, well, no, they are more
10 inspirational type of emails.
11 Q Oh, okay.
12 A Not jokes.
13 Q Oh, okay. Did you ever send jokes, silly things
14 through the email?
15 A Did I?
16 Q Yeah.
17 A To Yohannes?
18 Q To -- fair question. To people at Co-Op and others.
19 A Yes.
20 (Document Marked for Identification as
21 Defendant's Exhibit No. 3)
22 BY MS. CAULEY:
23 Q I'll show you the affidavit of Yohannes Bolds that
24 was produced along with other documents produced to
25 us by your attorneys.

Page 51

1 Can you tell me how this affidavit came to
2 be prepared?
3 MR. SWANSON: Objection to the extent that it
4 may, would appear to, it may be attorney/client
5 privilege as to any communications, Jackee, that we
6 as your attorneys had with you that related to this
7 affidavit, you are not to disclose that.
8 If you have knowledge outside of anything
9 that anyone in this office may have told you about
10 this affidavit, feel free to testify.
11 BY MS. CAULEY:
12 Q Can you answer my question?
13 MR. SWANSON: If you know anything other than
14 what I or Jesse may have told you about this
15 affidavit, you can answer her question.
16 BY MS. CAULEY:
17 Q Let me try to ask it a different way that might help
18 that.
19 Did Yohannes Bolds contact you and inform
20 you of attending a meeting at Mr. Murphy's house or
21 a party at Mr. Murphy's house?
22 A Yes.
23 Q Okay. And what did he say about that meeting, about
24 that party?
25 A He called me and he says, I heard what happened to

Page 52

1 you at Co-Op Optical.
2 And I was wondering how he heard. I said
3 what do you -- and first I was, I was not
4 necessarily going around telling everybody that I
5 had been terminated so I said, what do you mean.
6 I heard you got fired.
7 And I had said, I had been saying we had a
8 separation so I said how did you hear that.
9 He said that I was at a fund-raiser at
10 Raymond Murphy's home and he told me all that took
11 place during your board meetings and that they did
12 not treat you fairly.
13 Q Okay. Anything else that you can think of that he
14 said?
15 A No, he said -- I asked him, I said, are you willing
16 to -- I said, those should have been confidential
17 meetings and I said, you shouldn't be aware of
18 those, the details of those meetings or some of the
19 details of those meetings.
20 So I asked him if he would be willing to
21 provide me an affidavit stating that. He said, he
22 said, I don't care, he didn't seem like it was, it
23 was like a secret.
24 Q As far as you know, does this affidavit reflect
25 everything that Mr. Bolds told you that was said by

Page 53

1 Mr. Murphy?
2 A May I take time to read it?
3 Q Sure, sure, sure.
4 A This is correct.
5 Q Okay. When did you first treat with Dr. Rosalind
6 Griffin?
7 A My first treatment was January 29, 2010.
8 Q How did you learn of her, how did you come to go
9 there?
10 A Well, first of all, my medical doctor, my primary
11 doctor Dr. Lanore Najor told me that I needed, by
12 the stress that I needed to see someone that
13 practices that type of medicine.
14 A friend of mine that's an attorney
15 recommended me to -- I had two recommendations, Dr.
16 Robert Phol and Dr. Rosalind Griffin. One was given
17 to me by my doctor, the other was given to me by my
18 friend that's an attorney.
19 So I went to Dr. Griffin and when I went
20 in there I could hardly walk, I was shaking like a
21 leaf on the tree. I was highly upset and she told
22 me that I need to take time off. I was, she says I
23 was stressed out and she felt that it should be
24 confirmed that the things that are happening to me
25 is due to stress and mental anguish, I guess, is

Page 54

1 what she said.
 2 Q How many times did you see her?
 3 A I saw Dr. Griffin probably about maybe four or five
 4 times.
 5 Q During what period of time?
 6 A From January through -- I saw her every week.
 7 January through about March, the beginning of March,
 8 I believe.
 9 Q Did you treat with anyone else during that same
 10 period?
 11 A I was treating with a rheumatologist because of my
 12 joints, Dr. Jerrold Shargin and also I was seeing
 13 Dr. Lanore Najor. Also, let's see, and a Dr. Patel.
 14 Q What's Dr. Patel's specialty?
 15 A Neurology.
 16 Q Where is Dr. Najor located?
 17 A In Beverly Hills, Michigan. I do not know the
 18 address, I just know it's in Beverly Hills.
 19 Q Is it N-A-G-E-R, A-R?
 20 A N-A-J-O-R.
 21 Q J-O-R, thank you. And Dr. Shargin, how do you spell
 22 that?
 23 A S-H-A-R-G-I-N. And it's Jerrold, J-E-R-R-O-L-D.
 24 Q And Dr. Patel, P-I?
 25 A Dr. Patel was the doctor at Beaumont. Oh, I don't

Page 55

1 know his first name but it was P-A-T-E-L, he was a
 2 resident at Beaumont because I went into the
 3 emergency sometimes.
 4 Q Okay. Dr. Shargin?
 5 A Yes.
 6 Q Where is he located?
 7 A He's located in Beverly Hills.
 8 Q On what street?
 9 A On Southfield Road.
 10 Q Is that the same with Dr. Najor?
 11 A No, Dr. Najor is on Thirteen Mile Road.
 12 Q Okay. Why did you stop seeing Dr. Griffin?
 13 A Because I had to go into the hospital again and I
 14 had fell out once again and I missed two or three
 15 appointments and she kind of wrote me a letter and I
 16 just read between the lines.
 17 She suggest I continue seeing someone and
 18 she wishes me well. That's when I contacted the
 19 other doctor, Dr. Pohl.
 20 Q P-O-H-L?
 21 A P-O-H-L, Robert Pohl.
 22 Q And where is he located?
 23 A Royal Oak, Michigan.
 24 Q And how many times did you see Dr. Pohl?
 25 A I see him every month. Several times, I don't know

Page 56

1 the exact amount of times.
 2 Q Is he a psychiatrist or psychologist?
 3 A Psychiatrist. He's an MD.
 4 Q So he prescribes medication for you?
 5 A Yes.
 6 Q What medication?
 7 A Effexor, Abilify, Klonopin, Ambien CR.
 8 Q Do you take all four of those medications daily?
 9 A I do. I have -- I do.
 10 Q How often daily?
 11 A One each day. I have chronic insomnia so I take
 12 Ambien CR every night. Effexor and Abilify is for
 13 my depression. Klonopin helps my anxiety and my
 14 panic attacks.
 15 Q The Effexor, Abilify and Kolox --
 16 A Klon, Klonopin.
 17 Q What you said.
 18 A Uh-huh.
 19 Q Did you take those today?
 20 A Yes, I have.
 21 Q Okay.
 22 A I did not take Ambien.
 23 Q You take that at night?
 24 A Yes, at bedtime.
 25 Q What other medications are you on?

Page 57

1 A I'm on Norvasc for high blood pressure and also on a
 2 diuretic, Maxzide, I believe it's called.
 3 Q Prior to the last three months at Co-Op, had you
 4 ever taken anything for depression?
 5 A Dr. Najor had started me on Klonopin.
 6 Q When?
 7 A I'm not sure but I think it was probably in 2008. I
 8 was working anywhere from sixty to eighty hours a
 9 week.
 10 Q Any other -- well, that, you said that that was for
 11 anxiety and panic attacks. Did you ever take
 12 anything for depression?
 13 A No.
 14 Q Prior to treating with Dr. Griffin, have you ever
 15 treated with any psychiatrist or psychologist?
 16 A No.
 17 Q What was the serious health condition for which you
 18 needed a leave in the end of January 2010?
 19 A Repeat your question.
 20 Q What was the --
 21 A You said January?
 22 Q Yes.
 23 A Oh. Stress, anxiety, panic attacks, unable to sleep
 24 and when I did sleep it was recurring dreams of
 25 Co-Op Optical. That's it.

Page 58

1 Q When did you first call Dr. Griffin for an
 2 appointment?
 3 A A few days or a week before the 29th. I'm not sure
 4 of what the exact date is, ma'am.
 5 Q You saw Dr. Griffin on the 29th, correct?
 6 A Yes.
 7 Q Prior to that, had you talked with anyone at Co-Op
 8 about taking some time off?
 9 A If anybody, it would have been Armida. She was
 10 concerned about my health.
 11 Q So how did you go about proceeding to get some time
 12 off in the end of January 2009 (sic), what process
 13 did you follow?
 14 A Oh. Dr. Rosalind Griffin gave me a paper, I took it
 15 to human resources. These are the normal procedures
 16 for all employees. And I told them that I would
 17 have to take some time off per my doctor and I
 18 presented the human resource manager the papers.
 19 (Document Marked for Identification as
 20 Defendant's Exhibit No. 4)
 21 BY MS. CAULEY:
 22 Q Did you complete the document that is now listed as
 23 Exhibit No. 4?
 24 A Yes.
 25 Q Is everything that's written on that page in your

Page 59

1 handwriting?
 2 A Yes.
 3 Q Okay. And this is the form you submitted to Temeng
 4 Darko?
 5 A Yes.
 6 Q T-E?
 7 A T-E-M-E-N-G and Darko is capital D-A-R-K-O.
 8 Q Thank you, okay. And what did he do with it, if you
 9 know?
 10 A He gave me some other papers, he says that I'd have
 11 to apply for family medical leave and that was it.
 12 And I informed the Board, well, I informed the
 13 chairman of the board, I informed Marc Stepp because
 14 he was a part of the personnel committee and
 15 compensation and Ray Murphy was acting chairman of
 16 the board.
 17 Q Okay.
 18 A At that time.
 19 Q Now this document indicates that you submitted it to
 20 Raymond Murphy, chairman of the board although you
 21 just told me you submitted it to Temeng Darko.
 22 Which is accurate?
 23 A Oh, I submitted to both of them. I took it to HR so
 24 he would have a copy.
 25 Q Uh-huh.

Page 60

1 A And then I gave a copy to Raymond Murphy.
 2 Q So you Xeroxed a copy or what?
 3 A Yes.
 4 Q Okay.
 5 A Actually, the copy was Xeroxed in the HR department.
 6 Q Okay. And did you go right from Temeng's office and
 7 then go right to see Mr. Murphy?
 8 A No, Mr. Murphy, I called Mr. Murphy and he and Marc
 9 Stepp was, they said that they were planning on
 10 coming in into the office later that afternoon.
 11 Q Okay.
 12 A And I told them I had something that I had to tell
 13 them, tell, I told actually Raymond Murphy I had
 14 something I had to tell them.
 15 Q So you first submitted this to Temeng Darko, is that
 16 correct?
 17 A Correct.
 18 Q Why didn't you write on this that you submitted your
 19 request to Temeng Darko?
 20 A That was not a part of the procedure.
 21 Q Well, you just told us the procedure was to go to HR
 22 and submit the request.
 23 A Right. Doesn't mean that I have to write it on the
 24 paper, though. No one really writes it on the
 25 paper.

Page 61

1 Q Oh. What do they write?
 2 A They just -- who their supervisor, submit it, if
 3 it's John Doe they would say submit request to John
 4 Doe.
 5 Q Okay. So you always put the supervisor's name in
 6 there?
 7 A Yes, ma'am.
 8 Q Okay. And you understood that to be the procedure?
 9 A Yes.
 10 Q Okay, all right. So you gave it to Temeng, you
 11 called Mr. Murphy, he said he and Mr. Stepp were
 12 coming later that afternoon.
 13 Did anything happen between the time you
 14 submitted this to Temeng Darko and when Mr. Murphy
 15 and Mr. Stepp came in that afternoon in regards to
 16 the leave?
 17 A Between the time I submitted it to Temeng Darko and
 18 before I seen Mr. Stepp and Mr. Murphy?
 19 Q Yes.
 20 A Did anything happen?
 21 Q Regarding the leave.
 22 A The leave. No, I held it in, I, it was at, it was
 23 in human resources.
 24 Q Okay.
 25 A And that's about it.

Page 62

- 1 Q They had it?
- 2 A They had it.
- 3 Q Okay. Then tell me what happened when Mr. Murphy
- 4 and Mr. Stepp came in.
- 5 A Well, Mr. Murphy and Mr. Stepp came into my office
- 6 and I told them that I had to go on a family medical
- 7 leave.
- 8 Mr. Stepp said, has anybody seen this
- 9 document? I said the only person that have seen it
- 10 is Temeng Darko.
- 11 He says, retrieve the document and go on
- 12 vacation for two weeks and come back.
- 13 And so I retrieved the document and was
- 14 going to go on vacation for two weeks and come back,
- 15 more so because it was, it seemed to me like an
- 16 order.
- 17 And then I thought about it the night,
- 18 overnight and one of those nights I still couldn't
- 19 sleep, I could tell that I was not feeling well
- 20 mentally or emotionally and I changed my mind and
- 21 decided that I should go according to my doctor's
- 22 advice opposed to according to the advice of Mr.
- 23 Murphy and Mr. Stepp.
- 24 Q Okay. So you understood that you could, you could
- 25 go ahead and take the leave that you wanted to take

Page 63

- 1 and you were going to do it?
- 2 A Yes.
- 3 Q Right? Okay. Did you have, did you reach the
- 4 understanding in your own mind or a belief in your
- 5 own mind as to what Mr. Stepp and Mr. Murphy were
- 6 suggesting to you or telling you when they said, you
- 7 know, take two weeks off, do something like that?
- 8 I mean, did you reach a conclusion in your head as
- 9 to what they were up to or were they looking out for
- 10 your best interest, did they say you've got to do
- 11 what your doctor says, if you need a rest you've got
- 12 to have a rest?
- 13 They said that, didn't they?
- 14 A By that time, I'm to be candid or honest, I didn't
- 15 know what to believe. I didn't know whether I could
- 16 trust Marc or Raymond Murphy so, therefore, in my --
- 17 I felt it my best interest and my health's best
- 18 interest that I should just go ahead and go with my
- 19 doctor's recommendation.
- 20 Q Okay.
- 21 A So I don't know what they were thinking, I can't, I
- 22 could not interpret.
- 23 Q Did they, in fact, indicate to you that you've got
- 24 to do, if your doctor says you need rest, you need
- 25 rest?

Page 64

- 1 A No, they didn't say that.
- 2 Q They didn't support the fact that you needed to take
- 3 some time off?
- 4 A They told me to take, it was kind of like take off a
- 5 couple of weeks, cool off and come back.
- 6 Q Okay.
- 7 MR. SWANSON: At some point that's convenient,
- 8 can we take a break?
- 9 MS. CAULEY: Sure. Want to take it right now?
- 10 MR. SWANSON: Okay, if that's good.
- 11 MS. CAULEY: Uh-huh.
- 12 WITNESS: Okay.
- 13 MR. SWANSON: Five minutes?
- 14 MS. CAULEY: Five minutes.
- 15 (Whereupon an off-the-record discussion was
- 16 held.)
- 17 BY MS. CAULEY:
- 18 Q There's a group called the Optical Management Group,
- 19 right?
- 20 A OMG.
- 21 Q Okay, OMG. Oh, I think that is --
- 22 A A lot easier.
- 23 Q That is something that I text to people.
- 24 A Oh.
- 25 Q Or what I say when I'm surprised about something,

Page 65

- 1 OMG.
- 2 And do they have conferences?
- 3 A Yes.
- 4 Q And do you attend those conferences on occasion?
- 5 A We attend two conferences per year.
- 6 Q Okay. Do you recall a particular one in 2008 when
- 7 you and another attendee engaged in a cussing match
- 8 with a vendor? Remember anything about that?
- 9 A No.
- 10 Q No? Okay, that's fine.
- 11 A We may have, I may negotiate but not curse.
- 12 Q Okay, okay. Do you use any kind of what's generally
- 13 considered, you know, foul language like shit or
- 14 damn or hell?
- 15 A Yes.
- 16 Q You do, okay.
- 17 A Uh-huh.
- 18 Q But you don't use the F word?
- 19 A Not to my knowledge, no.
- 20 Q Okay. And do you engage in, you know, like sort of
- 21 off-color remarks, off-color sexual remarks in
- 22 business?
- 23 A No, but I have received off-color remarks in
- 24 business.
- 25 Q Uh-huh. Do you remember an occasion in November

Page 66

1 2009, that's just before, you know, the month before
 2 the OFIR meeting --
 3 A Uh-huh.
 4 Q -- when you and other members of management were on
 5 a conference call with a company about some kind of
 6 a business relationship and you stated in response
 7 to something that that person said on the phone,
 8 "You almost made me come" when you heard something
 9 they said.
 10 Did you ever say that?
 11 A No.
 12 Q And if every person in that meeting said you said
 13 that they'd all be lying?
 14 A Yes.
 15 Q Yeah, okay. Because that certainly wouldn't -- to
 16 do that wouldn't have demonstrated good judgement on
 17 the part of the CEO, right?
 18 A No.
 19 Q Would you agree?
 20 A Yeah, I agree.
 21 Q Yeah, okay.
 22 (Document Marked for Identification as
 23 Defendant's Exhibit No. 5)
 24 BY MS. CAULEY:
 25 Q Did you distribute that photograph by way of an

Page 67

1 email to some coworkers and others outside the
 2 company?
 3 A There is a series of art that was along with this
 4 that came from Larry Gardiner from LGA Associates.
 5 Q Uh-huh.
 6 A He sent it to me and I didn't really look at this
 7 and I just forward it on. And until I found out
 8 that I was -- it was later brought to my attention
 9 that there was somebody that was sitting on a bath,
 10 on a toilet that -- then I was informed of that and
 11 then that's when I went back and looked at my
 12 deleted files and looked at it.
 13 Q So you forwarded these things on to other people
 14 without looking at them you're saying?
 15 A Yeah. Because I looked at a couple of the pictures
 16 and they were art.
 17 Q How many pictures were there?
 18 A Oh, probably about maybe, I'm not, I'm guessing, I'm
 19 going to say maybe about ten, fifteen.
 20 Q Okay.
 21 A And I don't know where this one came in or what
 22 number this one was.
 23 Q Do you think it was appropriate to send something on
 24 without reviewing it to coworkers?
 25 A It appeared harmless in the beginning because it was

Page 68

1 art and I would not have known. And coming from
 2 Larry Gardiner, I just didn't think that it would
 3 have anything on there like that. At that
 4 particular time, I respected him and thought that he
 5 would use the best judgement.
 6 Q And you thought it was appropriate for a CEO to
 7 forward on ten photographs of art, regardless of the
 8 content, to coworkers?
 9 A The art was beautiful in the beginning.
 10 Q And that's the way you want your executives to spend
 11 their time, to look at art while they're working?
 12 A Well, according to what they were doing while they
 13 working from selling real estate to other things
 14 that were not related, sometimes it's, to me, it's
 15 okay for if something is going to break up the time
 16 and not take up too much time, to look at art or
 17 something of beauty or send a joke that is safe,
 18 then, yes, I would send that.
 19 Q Oh, and that, as CEO you think that's appropriate
 20 behavior?
 21 A I totally don't understand you by saying is it
 22 appropriate behavior.
 23 Q To forward on sort of emails full of whatever,
 24 whether it's inspirational things or whatever that
 25 aren't business related, do you think that's

Page 69

1 appropriate?
 2 A I think it's the judgement of the CEO individually
 3 whether to do that.
 4 Q Could you see how maybe board members might not
 5 think you exhibited good judgement in doing that?
 6 A I receive things from board members, too.
 7 Q Can you see how a board member might not consider
 8 that to be good judgement?
 9 A I've read them.
 10 Q Could you answer my question, please? Can you
 11 understand why a board member might not consider it
 12 good judgement for a CEO to send out emails
 13 unrelated to business to their executives?
 14 A No.
 15 (Document Marked for Identification as
 16 Defendant's Exhibit No. 6)
 17 BY MS. CAULEY:
 18 Q Is Exhibit 6 another one of those pictures that came
 19 from Larry Gardiner?
 20 A I've never seen this picture before in my life.
 21 Q So are you denying having forwarded it on to --
 22 A I'm not denying it, it's just I've never seen this
 23 picture before in my life.
 24 Q Okay. Now, you hired Larry Gardiner, right?
 25 A Larry --

<p style="text-align: center;">Page 70</p> <p>1 MR. SWANSON: Larry or Blair?</p> <p>2 BY MS. CAULEY:</p> <p>3 Q Larry Gardiner.</p> <p>4 A Larry Gardiner, yes, I did.</p> <p>5 (Document Marked for Identification as</p> <p>6 Defendant's Exhibit No. 7)</p> <p>7 BY MS. CAULEY:</p> <p>8 Q Is this another one of the pictures that you</p> <p>9 forwarded on to employees at Co-Op?</p> <p>10 A I don't know, I've never seen this one before</p> <p>11 either.</p> <p>12 Q When you went back to your computer after someone</p> <p>13 said there are some inappropriate pictures in there</p> <p>14 and you went back to check, didn't you look at them</p> <p>15 all?</p> <p>16 A No. I looked at all of them and I don't know if, I</p> <p>17 remember -- I'm sorry, ma'am, I just don't remember</p> <p>18 seeing this.</p> <p>19 Q Okay.</p> <p>20 (Document Marked for Identification as</p> <p>21 Defendant's Exhibit No. 8)</p> <p>22 BY MS. CAULEY:</p> <p>23 Q And didn't you, in fact, also forward this document</p> <p>24 on to members of your executive staff and others?</p> <p>25 A I don't remember seeing this one either. To me,</p>	<p style="text-align: center;">Page 72</p> <p>1 forwarded them on. But I'm not -- I'm sure if they</p> <p>2 were sent to me, they're, if Larry Gardiner sent</p> <p>3 them to other people within the office.</p> <p>4 Q Do you know that for a fact, ma'am?</p> <p>5 A No, I do not.</p> <p>6 Q Can you see why a board member might think it would</p> <p>7 be inappropriate for a CEO to forward these kind of</p> <p>8 photographs?</p> <p>9 MR. SWANSON: I'm going to just object to the</p> <p>10 extent you're asking her to speculate what's in a</p> <p>11 board member's mind.</p> <p>12 BY MS. CAULEY:</p> <p>13 Q Can you understand why someone might find that</p> <p>14 offensive in a workplace?</p> <p>15 A Yes, I feel it's possible, yes.</p> <p>16 (Document Marked for Identification as</p> <p>17 Defendant's Exhibit No. 9)</p> <p>18 BY MS. CAULEY:</p> <p>19 Q What was this leave request for?</p> <p>20 A I don't know, I didn't write it but I did sign it.</p> <p>21 Q Whose handwriting or who wrote it, can you tell, do</p> <p>22 you know?</p> <p>23 A It's very neat. Could be, oh, it's, no that's, I'm</p> <p>24 not -- no, I'm not going to guess, I'm not sure who</p> <p>25 wrote this but I did sign it so I must have taken</p>
<p style="text-align: center;">Page 71</p> <p>1 this is something someone does as art but I don't</p> <p>2 remember seeing it.</p> <p>3 Q You don't find this at all objectionable in the</p> <p>4 workplace?</p> <p>5 A In our workplace, there were so many things that</p> <p>6 were going on that was so, that could have been</p> <p>7 inappropriate by the gentlemen there.</p> <p>8 I don't know. I haven't seen this one.</p> <p>9 Q Ms. Smith, you were the CEO of Co-Op, is that</p> <p>10 correct?</p> <p>11 A That is correct.</p> <p>12 Q Would you agree that the CEO sets the tone for the</p> <p>13 kind of environment or should, in fact, set the tone</p> <p>14 for the kind of environment at the workplace?</p> <p>15 A I agree.</p> <p>16 Q And you forwarded on photographs that you received</p> <p>17 from Larry Gardiner without reviewing them, is that</p> <p>18 correct?</p> <p>19 A Yes, probably so.</p> <p>20 Q And if you forwarded on, if, in fact, you forwarded</p> <p>21 on documents like No. 7 with the two nude women in</p> <p>22 it, would you agree that that would be an offensive</p> <p>23 thing to do in a workplace, that would be</p> <p>24 inappropriate for a CEO to do?</p> <p>25 A If I would have seen the pictures, I would not have</p>	<p style="text-align: center;">Page 73</p> <p>1 that day off.</p> <p>2 Q Okay. And what day --</p> <p>3 A Personal business.</p> <p>4 Q What day would it have been that you took off?</p> <p>5 A That would have been January 27th, personal business</p> <p>6 day.</p> <p>7 Q Okay. And when were you making the request?</p> <p>8 A Oh, it could have been a doctor's appointment.</p> <p>9 Q And when were you making the request?</p> <p>10 A Because that's a Wednesday. Pardon me?</p> <p>11 Q When did you make the request for the day off on</p> <p>12 1-27?</p> <p>13 A Probably the day after, 1-28.</p> <p>14 Q That's because that's when your signature is dated,</p> <p>15 is that right?</p> <p>16 A Uh-huh.</p> <p>17 Q Is that a yes?</p> <p>18 A That's a yes.</p> <p>19 Q Okay. Is that proper procedure to request a day off</p> <p>20 the day after you've taken the day off?</p> <p>21 A It depends. What happens, if I was sick that day or</p> <p>22 had a doctor's appointment and I was unaware of it,</p> <p>23 then when I came back the following day then my</p> <p>24 assistant, it may have been Armida, would fill out</p> <p>25 the blue form so I could sign.</p>

<p style="text-align: center;">Page 74</p> <p>1 So it has happened and it happens, it's</p> <p>2 not uncommon within our organization for this to</p> <p>3 happen because you, sometimes you never know when</p> <p>4 you're sick.</p> <p>5 Personal business days, sick days,</p> <p>6 floating holidays are all considered the same in the</p> <p>7 salary level of the company. So if I have personal</p> <p>8 business days, it could have been a sick day, it</p> <p>9 could have been a personal business day.</p> <p>10 Q Doesn't this form allow for an indication for</p> <p>11 vacation, sick, personal business, funeral or</p> <p>12 floater holiday or floater day?</p> <p>13 A Huh?</p> <p>14 Q Doesn't this form, in fact, allow for an indication</p> <p>15 for the type of pay, whether it should be vacation</p> <p>16 pay which is a V, sick pay which is a K?</p> <p>17 A Uh-huh.</p> <p>18 Q Personal business which is PB, funeral with F,</p> <p>19 floater which is FH?</p> <p>20 A Uh-huh.</p> <p>21 Q So you're saying that the company didn't follow</p> <p>22 those?</p> <p>23 A If I didn't have sick days I would have put personal</p> <p>24 business or if I had personal business I would have</p> <p>25 put personal business. I have no idea what I did on</p>	<p style="text-align: center;">Page 76</p> <p>1 A This is probably before.</p> <p>2 Q Okay. I can read, well, why don't you read what it</p> <p>3 says there, then we'll have it in your words.</p> <p>4 A Do you want me to read it?</p> <p>5 Q Please, out loud.</p> <p>6 A Okay. 1-29-10 meeting with Marc and Ray in my</p> <p>7 office. I informed Marc and Ray the stress, the</p> <p>8 joint pain, lies are getting to me. I went to my</p> <p>9 doctor and she placed me on a medical until April 1,</p> <p>10 2010. Dash. Marc said he has --</p> <p>11 Q No, Marc --</p> <p>12 A Marc --</p> <p>13 Q Marc said has. You're putting words in.</p> <p>14 A Marc said has, okay, I'm speaking.</p> <p>15 Marc said has anyone seen -- let me put on</p> <p>16 my glasses, that may help. Okay.</p> <p>17 Marc said has anyone seen this. Only</p> <p>18 Temeng, the HR person. Marc told me to go back and</p> <p>19 get, and get, take -- Marc told me to go back and</p> <p>20 get a two-week vacation.</p> <p>21 Q Get, take a, isn't it?</p> <p>22 A Yeah, get, take a -- I messed up.</p> <p>23 Take a two-week vacation and return and</p> <p>24 the medical papers and return and return and the</p> <p>25 medical papers back to HR.</p>
<p style="text-align: center;">Page 75</p> <p>1 the 27th.</p> <p>2 Q Okay, all right.</p> <p>3 (Document Marked for Identification as</p> <p>4 Defendant's Exhibit No. 10)</p> <p>5 BY MS. CAULEY:</p> <p>6 Q No. 10 is a two-page document.</p> <p>7 A Uh-huh.</p> <p>8 Q First page of which I believe is nearly identical to</p> <p>9 Exhibit No. 4. Can you verify that for me?</p> <p>10 A Yes.</p> <p>11 Q Okay. But on the bottom of Exhibit 10 first page it</p> <p>12 has the word, over. Who wrote that?</p> <p>13 A I did.</p> <p>14 Q Okay. And then are the notes that are attached,</p> <p>15 it's the second page of those would have been on the</p> <p>16 opposite side of the over to which you're referring?</p> <p>17 A Uh-huh.</p> <p>18 Q Is that a yes?</p> <p>19 A Yes.</p> <p>20 Q Okay. When did you make those notes?</p> <p>21 A 1-29-10.</p> <p>22 Q Okay. Where were you when you made the notes?</p> <p>23 A In my office.</p> <p>24 Q Was this before or after you had fired Ted</p> <p>25 Winiarski?</p>	<p style="text-align: center;">Page 77</p> <p>1 Q Back from HR, isn't it?</p> <p>2 A Back from HR, yeah. Jackee Smith, 1-29-2010.</p> <p>3 My head is hurting, my knees and hips and</p> <p>4 back. I feel like dying. Save. I don't trust</p> <p>5 Marc, just a gut feeling.</p> <p>6 Marc made cracks about women, he is not to</p> <p>7 be trusted.</p> <p>8 Q Does it say trust?</p> <p>9 A Not to be trust. Remember, Jackee, do not trust</p> <p>10 Marc Stepp.</p> <p>11 Those are my inner thoughts, set them on paper</p> <p>12 and that's probably why over is on here and not on</p> <p>13 the other one.</p> <p>14 Q Okay. So how is it that you had two copies of this</p> <p>15 request for leave, one on which notes were written</p> <p>16 and one on which notes were not written?</p> <p>17 A I probably took a photocopy of my own.</p> <p>18 Q But you're guessing, is that correct, you don't</p> <p>19 know?</p> <p>20 A That's most likely what happened, yes.</p> <p>21 Q Okay. You're assuming that's it, correct?</p> <p>22 A I can pretty, I can pretty much say that I probably</p> <p>23 photocopied a copy of this for my personal use and</p> <p>24 they may have the original. I probably wrote over</p> <p>25 and put my thoughts on the back of the page.</p>

Page 78

1 Q Okay.

2 A I would not turn something like this in to HR.

3 Q Okay. Do you know if you turned either one of these

4 documents in to HR?

5 A Oh, yes, I'm positive. I had to in order to go on

6 family medical leave.

7 Q Well, didn't --

8 A As it shows in Exhibit 4.

9 Q Okay. Didn't it, in fact, didn't Mr. Murphy say,

10 tell you to go and get your paperwork back from HR?

11 A No, Marc Stepp told me to go back.

12 Q Marc, I'm sorry. Did Marc Stepp tell you to go get

13 your paperwork back from HR?

14 A Yes.

15 Q And did you do that?

16 A Yes, I did.

17 Q Okay. So what did you do with that once you took it

18 back?

19 A I held it in my hand, I kept it in my possession.

20 It was, it was like a week. I think if I'm not

21 mistaken, January 29, 2010 if you could look at a

22 calendar it might have been a weekend, like a

23 Friday.

24 Q I don't know.

25 A I'm not sure either but it might have, I just

Page 79

1 probably -- my thoughts is that is something that

2 I'd -- knowing me I was just thinking, thinking it

3 over and when I think, sometimes I write.

4 Q Okay. And you decided at that meeting that you

5 didn't trust Marc Stepp?

6 A For the first time, yes.

7 Q That's the first time you ever decided you couldn't

8 trust him?

9 A Yes, probably so.

10 Q Okay. And what had he said that made you think you

11 couldn't trust him?

12 A Well, the meeting from when he told me I couldn't

13 let anybody off before Christmas if we were

14 concerned about the budget.

15 I think that that's something, the

16 holiday, even in my, well, even if it was me, should

17 not be a concern and also to tell me not to listen

18 to my doctor and do as he had said.

19 Q Okay. Now it says, Marc made cracks about women.

20 To what are you referring to there?

21 A He made cracks about women, I don't know. He said

22 some, I don't know what the cracks was so I didn't

23 write that down so I don't know.

24 Q Are you referring to what he allegedly said about if

25 there weren't so many women on the --

Page 80

1 A Oh, yeah, that could have been it.

2 Q But you don't know?

3 A I'm not sure.

4 Q Okay. You don't know any other cracks about women

5 that he's made?

6 A No, I do not.

7 Q Okay. And you had to remind yourself not to trust

8 him by saying, remember, Jackee, do not trust Marc

9 Stepp?

10 A In the state of mind I was in at that particular

11 time, I wrote down things to try to help me remember

12 and to make sure that they were in my head, yes.

13 Q Is it fair to say when you made these notes that you

14 were kind of in bad shape?

15 A I was depressed, I was having the anxiety attacks,

16 the panic attacks, I couldn't sleep so, yes. And

17 sometimes when you have insomnia and you can't sleep

18 for three days, you can't remember and that's what I

19 was experiencing so I was writing things to myself

20 while I had them on my mind or waking up in the

21 night.

22 I do that when I go to bed, something

23 comes to my head, I have a notepad on my side table,

24 I write notes.

25 Q Okay. And would it be fair to say at the time you

Page 81

1 made these notes that you --

2 A I was in my office.

3 Q That you were in such shape that you, you weren't

4 making good decisions, you weren't comfortable with

5 your ability to make decisions because you were so

6 upset or is that fair to say?

7 A Right.

8 Q Okay. Yet it was after this that you fired Ted

9 Winiarski, after you wrote these notes?

10 A I had planned --

11 Q In the condition you were in?

12 A No, I had planned on firing Ted prior to February

13 1st.

14 Q So after you held on to the Exhibit, I guess it's 4,

15 the one without the notes?

16 A Uh-huh.

17 Q This is the one that you got back from HR, is that

18 right? Exhibit 4, I'm sorry.

19 A Oh. Probably so.

20 Q Because you didn't have notes on the one, yeah,

21 okay.

22 A Yeah, probably so.

23 Q So you went and got that back from Temeng?

24 A Uh-huh.

25 Q Is that a yes?

Page 82

- 1 A Yes.
- 2 Q Wait, I'm just reminding, we have to say the whole
- 3 thing.
- 4 A Yes, I'm sorry.
- 5 Q That's all right, it's okay to forget.
- 6 Then what did you do with this after that?
- 7 A When I got it back from Temeng? I held onto it and
- 8 I was trying to weigh out whether I should take two
- 9 weeks off or whether I should take the advice of my
- 10 doctor.
- 11 I had a fear that if I -- I had a fear
- 12 that if I took any longer than two weeks off that I
- 13 could possibly be fired, too.
- 14 Q Did anyone tell you that?
- 15 A No.
- 16 Q Okay. That was just something you had decided in
- 17 your head that --
- 18 A I hadn't slept for a while then, that was, January
- 19 was my, probably one of the worst months I've ever
- 20 had in my life.
- 21 Q Okay. So what did you do with it? Then you thought
- 22 about it over, if it was over a weekend or whatever,
- 23 you thought about it for some period of time, then
- 24 did you do anything else with this piece of paper?
- 25 A I kept it.

Page 83

- 1 Q Okay. Did you present it back to HR?
- 2 A Yes.
- 3 Q Okay. And that was to get your -- when you decided
- 4 you wanted to take a leave then?
- 5 A Yes.
- 6 Q And this is the one you presented back to them?
- 7 A No, I think I gave them one that, I gave them
- 8 another one to, just to say, to show the update of
- 9 2-1 and not January 29th.
- 10 Q Oh.
- 11 A Because I came in the 1st of February.
- 12 Q Okay. So you never -- you just kept this, you never
- 13 gave it back to HR?
- 14 A You're talking about --
- 15 Q Exhibit 4, sorry.
- 16 A -- Exhibit 4?
- 17 Q Yes.
- 18 A Oh, Exhibit 4, yes, ma'am, I did give it back to HR.
- 19 Q When did you give it back to HR?
- 20 A I gave it back to HR on, it had to be the 2nd, I
- 21 mean, 2-1, February 1st.
- 22 Q Why did you give HR this particular Exhibit 4 if it
- 23 said that your leave was supposed to start at 1-29?
- 24 A Because there were things in my office that were
- 25 personal that I wanted to get out. I had said to

Page 84

- 1 Marc and Ray that I was going to take two weeks and
- 2 come back so didn't change, it changed and I wanted
- 3 to come into my office and get some of my personal
- 4 effects.
- 5 Q Okay. I must not have made -- let's try it a
- 6 different way.
- 7 A Okay.
- 8 (Document Marked for Identification as
- 9 Defendant's Exhibit No. 11)
- 10 BY MS. CAULEY:
- 11 Q Let's look at Exhibit 11, please.
- 12 A Yeah.
- 13 Q Did you submit this document to HR?
- 14 A Yes, I did.
- 15 Q Okay. And did you submit both Exhibit 11 and
- 16 Exhibit 4 to HR on or about February 1st?
- 17 A Yes.
- 18 Q Okay. I'm trying to understand why you would submit
- 19 both of those.
- 20 A Because the date changed.
- 21 Q But the one was no good anymore, right?
- 22 A No, I wouldn't say that. It's just the dates
- 23 changed and I went back to the day of what my doctor
- 24 said.
- 25 Q Okay. Were you off work on the 29th of January?

Page 85

- 1 A No.
- 2 Q Were you off work on the 1st of January, 1st of
- 3 February?
- 4 A About a half day.
- 5 Q Okay. So you worked that day.
- 6 A Or a few hours.
- 7 Q So nothing that's requested in Exhibit 4 ever
- 8 happened. You never got a leave for that day,
- 9 correct, because you took it back, Exhibit 4?
- 10 A I was technically there but technically not there.
- 11 Q And you said the appropriate procedure when you fill
- 12 out these forms is to submit them to your
- 13 supervisor, correct?
- 14 A Yes.
- 15 Q Okay. You didn't submit the Exhibit 11 to your
- 16 supervisor though, you submitted it to Temeng Darko?
- 17 A I called Raymond Murphy and he could not come down
- 18 so I gave it to Temeng Darko.
- 19 Q Okay. If you could just answer my question. The
- 20 question was you submitted it to, in fact, you
- 21 didn't submit it to Temeng Darko, you sent it to
- 22 Temengo Darko, right?
- 23 A That's my A.
- 24 Q That's you're A?
- 25 A Uh-huh. Just I just didn't put the --

Page 86

- 1 Q Temengo?
- 2 A I know it looks like Temengo but that should have
- 3 been an A.
- 4 Q His name is Temenga or is it Temeng?
- 5 A It's Temenga, Temeng. I'm sorry, E. I messed up.
- 6 Q There's no vowel at all at the end of his name, is
- 7 there?
- 8 A No. Temeng E.
- 9 Q There's no O or A or E or anything?
- 10 A I think it's an E. Temeng. T-E-M-N-G-E, if I'm not
- 11 mistaken. I'm not sure, ma'am.
- 12 Q And you actually submitted this on 2-2-2010,
- 13 correct?
- 14 A Yeah, someone told me to come in and sign some -- I
- 15 had to sign a document.
- 16 Q For what?
- 17 A I think it was a bank, it was either a bank or a
- 18 letter to the state. It was something.
- 19 I remember that day. I came -- because I
- 20 was technically off. It might have been, it was
- 21 probably Ted Winiarski told, said that something had
- 22 to be signed or either it was a quarterly report.
- 23 Q But, in fact, you didn't, I mean, you came in on 2-2
- 24 and submitted this, is that right? Is that a yes?
- 25 A Came in on -- yes.

Page 87

- 1 Q You filled it out on 2-1-2010, correct?
- 2 A Yes.
- 3 Q Okay.
- 4 (Document Marked for Identification as
- 5 Defendant's Exhibit No. 12)
- 6 BY MS. CAULEY:
- 7 Q Have you seen Exhibit 12 before?
- 8 A Yes.
- 9 Q On what date was that completed if, according, at
- 10 least to the document itself, do you know? I'll
- 11 refer you to the last page, there's a date.
- 12 A Oh, it is Temeng, okay.
- 13 Go to the last page, 2-2-10.
- 14 Q So it's at least, according to the document, this
- 15 was filled out by Dr. Griffin on the 2nd of
- 16 February, is that correct?
- 17 A Yes.
- 18 Q Okay. Did you present these forms to Dr. Griffin to
- 19 be completed?
- 20 A Yes.
- 21 Q Okay. And when did you give her the forms?
- 22 A One, two, three --
- 23 Q Maybe I can help by asking a couple questions.
- 24 Did you fax the forms to Dr. Griffin?
- 25 A Yes.

Page 88

- 1 Q Is there a fax indication on the top at least of the
- 2 first page that says it went on 2-1-2010?
- 3 A Yes.
- 4 Q Do you believe that that's when you faxed them to
- 5 Dr. Griffin as a form for her to complete?
- 6 A Yes, it's right on the paper.
- 7 Q Where is it, you mean, the --
- 8 A It's right on the document.
- 9 Q Are you talking about the fax line?
- 10 A Yes.
- 11 Q Yes, okay. And do you know by what means she
- 12 returned these documents to you?
- 13 A Wasn't by fax, I might had to have picked them up or
- 14 either -- probably picked them up.
- 15 Q Okay. Do you recall specifically picking them up?
- 16 A No, I do not, ma'am.
- 17 Q Okay. Do you know where Dr. Griffin's office is?
- 18 A Yes, I think it's, that was, I think it's, it's not
- 19 far from my home. It's either Farmington or I think
- 20 it's Farmington if I'm not mistaken.
- 21 Q On Northwestern Highway?
- 22 A Pardon me?
- 23 Q On Northwestern Highway?
- 24 A Yes.
- 25 Q As of 2-1-2010, what was your intent in terms of

Page 89

- 1 your leave?
- 2 A As of 2-1-2010 what was my intent as for my leave,
- 3 is that what you're saying?
- 4 Q Yeah, how much leave did you intend to take?
- 5 A I believe, well, I know that I was going to follow
- 6 my doctor's instructions and take off until April
- 7 1st.
- 8 Q Okay. Did anyone, after this was submitted, did
- 9 anyone at Co-Op tell you you cannot take this leave?
- 10 A No.
- 11 Q In fact, you took the leave, is that correct?
- 12 A Correct.
- 13 (Document Marked for Identification as
- 14 Defendant's Exhibit No. 13)
- 15 BY MS. CAULEY:
- 16 Q Can you tell me what that document is?
- 17 A Yes, this is a request for me to be off after that
- 18 time, after my medical but I know why.
- 19 Q What do you mean after your medical?
- 20 A After, after this was submitted, Exhibit No. 12, I
- 21 came back into the office on 2-2, 2-3, 2-4 and 2-5.
- 22 I mean, I did not come back into the office.
- 23 Q Okay.
- 24 A I'm sorry.
- 25 Q But you were going to be off on leave from 2-2 going

<p style="text-align: center;">Page 90</p> <p>1 forward so -- and that's, this asks for pay for 2-1,</p> <p>2 2-2, 2-3, 2-4 and 2-5, correct?</p> <p>3 A Yes. However, I was in the office.</p> <p>4 Q Well, you just said you were home sick all those</p> <p>5 days.</p> <p>6 A Well, if I said that, I made a mistake because I had</p> <p>7 to prepare a document for the State of Michigan and</p> <p>8 also do some other work that was requested from me</p> <p>9 by the Board.</p> <p>10 Q Did you work on 2-2, 2-3, 2-4 and 2-5 at Co-Op?</p> <p>11 A Yes.</p> <p>12 Q Then why do you have something that indicates that</p> <p>13 you want sick pay for those times or personal</p> <p>14 business?</p> <p>15 A Because I'm working.</p> <p>16 Q If you're working, why do you need sick pay? You're</p> <p>17 working. You're asking for sick pay for times that</p> <p>18 you're saying now you worked.</p> <p>19 A Because I chose to come into the office and do the</p> <p>20 assignment that was requested to me by the Board of</p> <p>21 Directors.</p> <p>22 Q Then you weren't off, you were working?</p> <p>23 A No.</p> <p>24 Q You should have gotten your regular pay, correct?</p> <p>25 So why are you asking for sick time?</p>	<p style="text-align: center;">Page 92</p> <p>1 if you had paid time available to you.</p> <p>2 A Yes.</p> <p>3 Q Okay. Did you have more -- how many days, paid</p> <p>4 time, did you have available?</p> <p>5 A I don't know.</p> <p>6 Q Okay. Is it the policy at Co-Op when someone takes</p> <p>7 FMLA leave that they must use their paid time as</p> <p>8 part of that leave?</p> <p>9 A I don't remember the policy.</p> <p>10 Q Okay.</p> <p>11 (Document Marked for Identification as</p> <p>12 Defendant's Exhibit No. 14)</p> <p>13 BY MS. CAULEY:</p> <p>14 Q Is the document which is Exhibit 14 -- do you know</p> <p>15 what that is?</p> <p>16 A It's a claim for short-term disability.</p> <p>17 Q Okay. Does your handwriting appear anywhere on that</p> <p>18 document?</p> <p>19 A At the top where it says Co-Op Optical, Jacqueline</p> <p>20 Smith and that's all.</p> <p>21 Q Okay. And do you know on what date you completed</p> <p>22 that document? The first top, obviously, I mean.</p> <p>23 A Oh, it says 2-1-2010.</p> <p>24 Q That says that's the date the benefits was to begin,</p> <p>25 benefits were to begin rather?</p>
<p style="text-align: center;">Page 91</p> <p>1 A Well, because I already submitted my leave of</p> <p>2 absence for family medical leave.</p> <p>3 I'm sorry if you don't understand, maybe I</p> <p>4 did something that was not --</p> <p>5 MR. SWANSON: Just answer the question.</p> <p>6 BY MS. CAULEY:</p> <p>7 Q Did you have sick time paid?</p> <p>8 MR. SWANSON: Excuse us.</p> <p>9 MS. CAULEY: Probably switch.</p> <p>10 MS. CAULEY: Excuse us for a minute, we have to</p> <p>11 go off the record.</p> <p>12 (Whereupon an off-the-record discussion was</p> <p>13 held, Mr. Stepp left the deposition and Mr. Ted</p> <p>14 Winiarski entered the deposition.)</p> <p>15 BY MS. CAULEY:</p> <p>16 Q Ms. Smith, I want to try to get this clear. So it's</p> <p>17 your testimony that you worked on February 1st, 2nd,</p> <p>18 3rd, 4th and 5th in the office at Co-Op?</p> <p>19 A I'm not sure.</p> <p>20 Q Okay.</p> <p>21 A I don't know.</p> <p>22 Q Well, did you have paid sick time available to you</p> <p>23 when you took your FMLA leave?</p> <p>24 A If it's on here, yes.</p> <p>25 Q I'm not asking you if it's on there, I'm asking you</p>	<p style="text-align: center;">Page 93</p> <p>1 A It says that, yes.</p> <p>2 Q Okay. You don't know when you actually completed</p> <p>3 the document or do you?</p> <p>4 A I don't know.</p> <p>5 Q Okay. Did you complete this document in the office</p> <p>6 or somewhere else, if you know?</p> <p>7 A In the office.</p> <p>8 Q Okay. Armida Parisi worked for you, is that</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 Q She was your executive assistant?</p> <p>12 A Yes.</p> <p>13 Q And she did things at your direction?</p> <p>14 A Yes.</p> <p>15 Q And it's pretty accurate to say that no one else</p> <p>16 really was able to direct her, they all had to come</p> <p>17 through you and you directed her?</p> <p>18 A That's not true.</p> <p>19 Q Oh, anyone could give her assignments?</p> <p>20 A She has received assignments from others, yes.</p> <p>21 Q Okay. And that was okay with you for anyone?</p> <p>22 A Especially in my absence.</p> <p>23 Q Who could assign things to her if you were not</p> <p>24 absent?</p> <p>25 A Ted, Charles, Ben.</p>

Page 94

1 Q Okay. And did you ever put that in writing to them,
2 telling them that they could do that?
3 A No.
4 Q Okay. As of February 3, 2010, was it your belief
5 that you were on medical leave until April 1st?
6 A **Repeat the question. On February 3rd?**
7 Q Yes.
8 A **2010? And the rest of your question?**
9 Q Was it your belief that you were on medical leave
10 until April 1st?
11 A **My intentions were to be on medical, yes.**
12 Q Okay.
13 (Document Marked for Identification as
14 Defendant's Exhibit No. 15)
15 BY MS. CAULEY:
16 Q Did you direct Ms. Parisi to send this email that is
17 Exhibit 15?
18 A No.
19 Q Have you ever seen that email?
20 A No.
21 Q It said it was cc'd to you, you --
22 A **Sure is but --**
23 Q Did you receive -- I'm sorry, I didn't mean to cut
24 you off.
25 A **Never seen this one.**

Page 95

1 Q Okay. Did you receive emails at home on your home
2 computer while you were on leave?
3 A **Yes. But the reason I know -- yes.**
4 Q Okay. But the reason you know what?
5 A **I don't know if it came to my home.**
6 Q Well, could you read emails that --
7 A **Jackee will be taking a two-week vacation for --**
8 **Jackee Smith and the Board of Directors -- Ben**
9 **Edwards vice president will be acting as CEO and**
10 **president, please provide Mr. Edwards with any**
11 **assistance during this time.**
12 Q Did you have an email address at Co-Op?
13 A Yes.
14 Q Did you have a different email address at home?
15 A Yes.
16 Q Could you access your Co-Op email from home?
17 A **I've been trying to do that forever since I've been**
18 **there, no.**
19 Q While you were on leave you could not, is that your
20 testimony?
21 A Yes.
22 Q Okay. Did Armida Parisi email you at your home
23 email address while you were on leave?
24 A **Yes, she has.**
25 Q Okay. Did you think it was improper for anyone at

Page 96

1 Co-Op to contact you while you were on your leave?
2 A **At first, no, I did not think it was improper, I**
3 **still wanted to give my all to Co-Op Optical if**
4 **needed or if I had to sign anything.**
5 Q Okay. When did you change your mind that it no
6 longer was okay?
7 A **My husband changed my mind because he was tired of**
8 **the phone ringing and me on the computer and he said**
9 **I was not getting my rest.**
10 Q Okay. So is it fair to say that you're not
11 complaining in this complaint, in this lawsuit about
12 the contacts you received from the company at least
13 prior to when your husband decided it was no longer
14 okay?
15 MR. SWANSON: She didn't testify that it was
16 when her husband decided. Go ahead and answer the
17 question.
18 BY MS. CAULEY:
19 Q Was there something I just -- my husband decided --
20 A **Now, now, okay, say that again now?**
21 Q No, I'd like to go back please and read the last
22 question and answer.
23 (Whereupon the question and answer was played
24 back by the court reporter.)
25 BY MS. CAULEY:

Page 97

1 Q So is it fair to say that you're not complaining in
2 this lawsuit about any contacts you received from
3 Co-Op prior to your husband changing your mind about
4 whether it was okay to receive things at home?
5 A Yes.
6 Q That's accurate? Okay. So the only complaint you
7 have in the lawsuit, in regard to the contacts I
8 mean, you know, were any contacts that occurred
9 after your husband said no more contacts, is that
10 correct?
11 A Yes.
12 Q Were there any contacts after your husband said no
13 more contacts?
14 A Yes.
15 Q Okay. Who contacted you after your husband said no?
16 A **The auditors from the State of Michigan and Ben**
17 **Edwards requesting documents, papers and things of**
18 **that nature.**
19 Q Okay. And you didn't want the auditors from the
20 State of Michigan contacting you, is that correct,
21 after, after the time that your husband said no more
22 contacts?
23 A **I didn't want the auditors to really contact me but**
24 **I was still concerned about Co-Op not receiving the**
25 **information that they needed to be audited.**

25 (Pages 94 to 97)

Page 98

1 Q In fact, didn't you tell the State that the
2 prohibition of contacting you at home did not apply
3 to them and that you wanted them to continue to
4 contact you at home?
5 A I think I said to them in an email that if you have
6 any questions, please contact me.
7 Q Okay. So is it fair to say you're not complaining
8 in this lawsuit about any contacts made by the
9 auditors after your husband said no more contacts?
10 You told them it was okay.
11 MR. SWANSON: Is that a question or are you
12 testifying, Mary?
13 BY MS. CAULEY:
14 Q Go ahead and answer, please.
15 MR. SWANSON: Is there a question?
16 WITNESS: I'm thinking, ma'am.
17 MS. CAULEY: Yeah, she's got the question.
18 WITNESS: I'm thinking.
19 BY MS. CAULEY:
20 Q Oh, okay.
21 MR. SWANSON: I thought you were going to give
22 question and your own testimony, that's what it
23 sounded like.
24 WITNESS: I'm going to say this. I did not
25 want the auditors to probably contact me but I am,

Page 99

1 to be honest, I'm just don't remember. I'm sorry, I
2 don't remember that. You may have something that's
3 related, I don't remember.
4 BY MS. CAULEY:
5 Q All right. But then you said Ben contacted you.
6 What did he contact you about after your husband
7 said no more contacts?
8 A To return all Co-Op Optical documents, CDs and per
9 Raymond Murphy, all hands on deck.
10 Q Any other contact that he made with you after?
11 A No. Ted stopped the auditors and I think Ted
12 stopped the people at the office, but I did receive
13 emails.
14 Q From who?
15 A Just people checking to see how I was doing.
16 Q Oh, so you're not complaining about any of those
17 emails about people checking to see how you were
18 doing, are you?
19 A Yes, I am.
20 Q Oh, that was improper?
21 A I didn't want to be bothered.
22 Q Okay. Who, who --
23 A I don't remember.
24 Q Let me ask my question, please.
25 A Uh-huh.

Page 100

1 Q Who emailed you after your husband said no more
2 emails to see how you were doing, who from Co-Op?
3 A One I remember, I think John Barnes. I know there
4 were a couple others and I don't remember who. I
5 don't think I responded, I deleted them.
6 Q So you have no record of anyone contacting you after
7 your husband said no contact to find out how you
8 were doing?
9 A I have no recollection of who the people are that
10 contacted me.
11 Q And you have no record of it, no written, no
12 document or --
13 A Correct.
14 Q -- electronic thing. Who is John Barnes?
15 A He's in IT.
16 Q Is he one of the persons you hired?
17 A No.
18 Q You didn't hire him?
19 A No.
20 Q Did you recommend his hiring?
21 A No.
22 Q Did you know him before he came to Co-Op?
23 A No.
24 Q Never met him before, didn't know who he was?
25 A Correct.

Page 101

1 Q Is that right? Okay. How long had he been there?
2 A John's been there probably about nineteen, twenty
3 years.
4 Q Okay. And how many times did he email you to see
5 how you were doing?
6 A He's emailed me until this day.
7 Q Is he still working at Co-Op?
8 A Yes.
9 Q Did you ever tell anyone in management at Co-Op that
10 John Barnes was not following the directive of no
11 emails?
12 A No.
13 Q Why not?
14 A I treat John -- John is a special case.
15 Q What does that mean?
16 A He's, he has some mental issues and the emails that
17 he sent were basically -- he sent me two that were
18 inappropriate that showed hot dogs with penises and
19 I didn't respond to those.
20 And then he sent me email, the very first
21 email he sent me was just asking me how I was doing
22 and how my granddaughter was doing.
23 And then they got a little racy and then I
24 just stopped answering him.
25 Q Okay. My --

<p style="text-align: center;">Page 102</p> <p>1 A And that was as of this month. Last month.</p> <p>2 Q So did he send the racy, hot dog pictures while you</p> <p>3 were still employed at Co-Op?</p> <p>4 A No.</p> <p>5 Q Going back to what my real question was and that</p> <p>6 was, why didn't you ever complain to anyone at Co-Op</p> <p>7 about Barnes violating that order that nothing was</p> <p>8 to be sent to you?</p> <p>9 A I just didn't respond.</p> <p>10 Q Are you blaming Co-Op for the fact that he continued</p> <p>11 to email you?</p> <p>12 A No, I'm not.</p> <p>13 Q So that's not one of your complaints in this</p> <p>14 lawsuit?</p> <p>15 A No, ma'am.</p> <p>16 Q Okay. Let me see then, we've got -- oh, and are you</p> <p>17 -- you're blaming Co-Op, though, for the couple of</p> <p>18 others who emailed you to see how you were doing but</p> <p>19 you --</p> <p>20 A No, I'm not.</p> <p>21 Q -- don't know who they -- oh, you're not blaming</p> <p>22 them for that either?</p> <p>23 A No.</p> <p>24 Q Okay, well, I thought you said you were.</p> <p>25 Okay, let me see, Ted stopped the</p>	<p style="text-align: center;">Page 104</p> <p>1 in this lawsuit about having been contacted while</p> <p>2 you were on medical leave by anyone at Co-Op?</p> <p>3 A Correct. I have no complaint.</p> <p>4 Q Okay. Did Sharmien Scott take a FMLA leave when she</p> <p>5 had her medical problems?</p> <p>6 A Did --</p> <p>7 Q Did she take an FMLA leave?</p> <p>8 A Yes, I believe so. When she had her medical back</p> <p>9 problems?</p> <p>10 Q Yeah. I don't --</p> <p>11 A Yes.</p> <p>12 Q -- know what the problems were.</p> <p>13 A Yes, she did.</p> <p>14 Q I just know that she was off for a period and it was</p> <p>15 during that period that she was paid her disability</p> <p>16 plus Co-Op made up the difference in her salary, is</p> <p>17 that correct?</p> <p>18 A Yes.</p> <p>19 Q Okay. Had that ever been done for anyone else at</p> <p>20 Co-Op --</p> <p>21 A No.</p> <p>22 Q -- as far as you know?</p> <p>23 A No.</p> <p>24 Q Okay. And what was the reason that Co-Op made up</p> <p>25 her salary when she was on disability?</p>
<p style="text-align: center;">Page 103</p> <p>1 auditors, Ted stopped the office.</p> <p>2 So we've got Ben Edwards emailing you once</p> <p>3 asking for documents, is that accurate or is there</p> <p>4 more that happened after your husband said no more</p> <p>5 contact?</p> <p>6 A I'm not, to be -- I'm not sure whether it was before</p> <p>7 or after. So I know, I remember Ben, I think I</p> <p>8 received maybe one from Ben but I don't remember</p> <p>9 whether it was before or after I was on medical.</p> <p>10 Q Okay. Well then, I guess I need to ask you what --</p> <p>11 A You mean, after I was on medical or after --</p> <p>12 Q No, ma'am.</p> <p>13 A I'm sorry.</p> <p>14 Q I'm sorry. After your husband said no more emails.</p> <p>15 A They stopped, except for the ones I indicated.</p> <p>16 Q Okay. And I guess, because I'm confused now, I'm</p> <p>17 sorry.</p> <p>18 A I am, too.</p> <p>19 Q What emails were sent from Co-Op after your husband</p> <p>20 sent notice to Ben Edwards to not send any more?</p> <p>21 What emails came?</p> <p>22 A John Barnes.</p> <p>23 Q Anyone else?</p> <p>24 A I don't remember.</p> <p>25 Q So is it accurate to say that you have no complaint</p>	<p style="text-align: center;">Page 105</p> <p>1 A Ted and Temeng got together and they found a way to</p> <p>2 make up her salary because she was still working at</p> <p>3 home on her computer, helping out with the payroll.</p> <p>4 Q Okay.</p> <p>5 A I had nothing to do with that.</p> <p>6 Q As CEO, were you aware that she was working at home</p> <p>7 on her computer?</p> <p>8 A As CEO I made a statement that I am not a part of</p> <p>9 any decisions of any of the members of my family</p> <p>10 that works there.</p> <p>11 Q I'm sorry, it could go a lot faster if you could</p> <p>12 answer my question.</p> <p>13 My question was, as CEO, were you aware</p> <p>14 that she was working at home for Co-Op while she was</p> <p>15 on leave?</p> <p>16 A Yes.</p> <p>17 Q Okay. And did you think that that was proper that</p> <p>18 she should work at home while she was on leave?</p> <p>19 A It didn't faze me one way or the other.</p> <p>20 Q Did Co-Op purchase a computer for her so she could</p> <p>21 work at home while she was on leave?</p> <p>22 A I don't remember that.</p> <p>23 Q If that happened, do you think that would be</p> <p>24 appropriate?</p> <p>25 A If she was, if she didn't, if she was working for</p>

Page 106

1 Co-Op maybe so, not for her personal use but for
 2 Co-Op Optical's use.
 3 Q Okay. And what was she doing at home?
 4 A I have no idea, that was not my department. She was
 5 not under my guidance, she was under the guidance of
 6 Matt and Temeng Darko.
 7 Q So as CEO you had no idea what she was doing at
 8 home?
 9 A No.
 10 Q Just that she was working?
 11 A Correct. I know that people came to her home from
 12 Co-Op Optical to get some training, like, Cristell
 13 and also the other young lady that was temporarily
 14 replacing her.
 15 Q Okay.
 16 A Angela, I believe her name was.
 17 Q So someone was hired to replace her while she was on
 18 leave, is that correct?
 19 A She was already hired.
 20 Q Didn't you just say the person who was hired to
 21 replace her?
 22 A Take her place, I'm sorry.
 23 Q Who was -- was anyone new hired in to cover while
 24 she was out on leave?
 25 A I don't know, I don't hire people but I don't know

Page 107

1 if she was hired or not. I know she worked there
 2 before so I know she worked there. She was laid off
 3 a couple times.
 4 I don't have an answer to your question.
 5 Q Okay. So are there -- but I think you've mentioned
 6 two people then who were kind of covering for her,
 7 is that right? Whether they worked there before or
 8 hired in or not, we don't know but is that right?
 9 A Right.
 10 Q So we've got two people covering for her, right?
 11 And she's working at home and being paid for it,
 12 right?
 13 A No, that's not --
 14 Q What's wrong?
 15 A -- exactly right.
 16 Q Okay, what's wrong?
 17 A One person went there to train her on the new system
 18 or a new -- some software as I recall, what I was
 19 told by Ted or either Temeng.
 20 Q Okay.
 21 A One lady was there because she did not necessarily
 22 have any payroll experiences to walk her through
 23 payroll so we would make sure the employees were
 24 paid.
 25 That's what was reported to me. Other

Page 108

1 than that, I had no other knowledge.
 2 Q Okay. In May 2009, okay, we're going to go back
 3 now --
 4 MR. SWANSON: Is this a new topic, Counsel?
 5 MS. CAULEY: Oh, I'm sorry, you wanted a break.
 6 Absolutely.
 7 MR. SWANSON: Yeah, okay.
 8 MS. CAULEY: I'm sorry, I forgot.
 9 MR. SWANSON: No, that's okay.
 10 MS. CAULEY: I've been through a couple of
 11 others, I didn't mean to do that. So what is the
 12 time?
 13 MR. SWANSON: It's ten to one, you want to come
 14 back at 1:30?
 15 MS. CAULEY: Sure.
 16 (Whereupon an off-the-record discussion was
 17 held.)
 18 BY MS. CAULEY:
 19 Q Did you consider Ms. Parisi to be a loyal employee
 20 of yours?
 21 A Yes.
 22 Q Did you believe that she would do anything against
 23 you to harm you?
 24 A No.
 25 Q Can you think of any reason why you might not have

Page 109

1 gotten Exhibit 15, that email?
 2 A Could have been just an error.
 3 Q Okay. Is it your belief that if Armida Parisi said
 4 she sent something to you, she at least meant to
 5 send it to you, right?
 6 A Yes.
 7 Q Yeah, okay. Did you ever tell her that you were
 8 going to be taking a two-week vacation? Did you
 9 ever tell Armida that?
 10 A No.
 11 Q No? Okay. I'm going to go back to Exhibit 13 if
 12 you don't mind, please, because just before we broke
 13 I think we were both maybe a little confused and I
 14 just want to see if there's a way that we can
 15 clarify this --
 16 A Okay.
 17 Q -- about what went on there. Let's try again.
 18 Did you work on February 1st, 2nd, 3rd,
 19 4th and 5th, and/or 5th?
 20 A I don't know.
 21 Q Okay. Would you have asked for paid time off for
 22 that period if you had worked?
 23 A No.
 24 Q Okay. Did you receive disability payments for the
 25 period that you were off on leave? Short-term

<p style="text-align: center;">Page 110</p> <p>1 disability payments?</p> <p>2 A Oh, okay, yes.</p> <p>3 Q Okay. For what period did you receive benefits from</p> <p>4 the short-term disability insurance?</p> <p>5 A I was denied so I had one lump sum, I don't know</p> <p>6 what the dates were and that was it.</p> <p>7 Q You were initially denied and then approved, is that</p> <p>8 right?</p> <p>9 A After appeals, yes.</p> <p>10 Q Okay. And did anyone ever tell you for what period</p> <p>11 you were approved?</p> <p>12 A I'm not sure.</p> <p>13 Q What was -- I'm sorry.</p> <p>14 A I'm not sure.</p> <p>15 Q What was the period of your disability?</p> <p>16 A My disability was, according to this, February 1,</p> <p>17 2010.</p> <p>18 Q Until when?</p> <p>19 A Until April 1, 2010.</p> <p>20 Q I know that was what the initial certification was</p> <p>21 for but what was the term of your actual disability?</p> <p>22 What period of time were you actually unable to</p> <p>23 work?</p> <p>24 A I'm still on disability.</p> <p>25 Q So you're still unable to work?</p>	<p style="text-align: center;">Page 112</p> <p>1 Q Why did you purchase the policy?</p> <p>2 A Because we were trying to cut cost and I had the</p> <p>3 option. This is from -- I was grandfathered in from</p> <p>4 the old executive staff with this insurance. So</p> <p>5 cutting costs, I cut the life insurance because the</p> <p>6 executive staff had a special life insurance that</p> <p>7 was personally theirs and also I learned later there</p> <p>8 was one for disability.</p> <p>9 Q Okay.</p> <p>10 A So I cut mine. I cut, I cut mine off, too. Well,</p> <p>11 after all of them left, I -- it was cut off.</p> <p>12 Q Was that a long-term disability policy?</p> <p>13 A Yes.</p> <p>14 Q Okay. Did your short-term disability from the</p> <p>15 company end at some period of time?</p> <p>16 A April 1st.</p> <p>17 Q It ended April 1st, okay. Who has certified you as</p> <p>18 being disabled after April 1st?</p> <p>19 A Robert Pohl, Dr. Robert Pohl, MD.</p> <p>20 Q And what has he indicated in terms of your</p> <p>21 prognosis?</p> <p>22 A Depression, anxiety, still having panic attacks,</p> <p>23 mental anguish and just coping.</p> <p>24 Q Okay. That would be your diagnosis. Now do you know</p> <p>25 what your prognosis is? Do you know what that</p>
<p style="text-align: center;">Page 111</p> <p>1 A Yes.</p> <p>2 Q Okay. And are you still receiving disability</p> <p>3 payments?</p> <p>4 A Yes, but not from this company.</p> <p>5 Q From what company are you receiving disability</p> <p>6 payments?</p> <p>7 A Northwestern Mutual.</p> <p>8 Q And what insurance policy is that, who holds that</p> <p>9 policy?</p> <p>10 A I do.</p> <p>11 Q It was a personal policy that you purchased?</p> <p>12 A It was originally from the company and I purchased</p> <p>13 it myself now, yes.</p> <p>14 Q When did you purchase that?</p> <p>15 A When we -- I don't remember. I don't remember. I'm</p> <p>16 guessing so I don't know.</p> <p>17 Q Well, was it before 2009?</p> <p>18 A I don't know.</p> <p>19 Q Okay. Was it before you went off on leave in 2010?</p> <p>20 A After.</p> <p>21 Q So you were on leave when you purchased it?</p> <p>22 A No, it was, no, it had to be before. I'm sorry.</p> <p>23 Q Before. So you were still actively at the company</p> <p>24 when you purchased that policy?</p> <p>25 A Yes.</p>	<p style="text-align: center;">Page 113</p> <p>1 means, prognosis, what does he predict is going to</p> <p>2 happen to you in the future?</p> <p>3 A Hopefully that I get better and can, will start</p> <p>4 working again.</p> <p>5 Q Does he give any time limit when that might happen?</p> <p>6 A Yes, he indicated possibly January or February of</p> <p>7 2011.</p> <p>8 Q Okay. And I'm sorry, I could try to find it in my</p> <p>9 notes but it would be much faster if you would tell</p> <p>10 me where Robert Pohl -- is he in Royal Oak?</p> <p>11 A Royal Oak, 123 Main, Royal Oak.</p> <p>12 Q Thank you.</p> <p>13 MS. CAULEY: I assume there's no objection to a</p> <p>14 release for all the documents?</p> <p>15 MR. SWANSON: An appropriate release there</p> <p>16 would be no objection to. Yeah.</p> <p>17 MS. CAULEY: Do you have a form that you</p> <p>18 prefer?</p> <p>19 MR. SWANSON: I think we typically use the</p> <p>20 Record Deposition or Record Copy Service form so</p> <p>21 that ensures that we get a copy of it when --</p> <p>22 MS. CAULEY: That's fine with me.</p> <p>23 MR. SWANSON: Okay.</p> <p>24 MS. CAULEY: So we'll just do that and</p> <p>25 you'll --</p>

<p style="text-align: center;">Page 114</p> <p>1 MR. SWANSON: That's fine.</p> <p>2 MS. CAULEY: We send it to you and you'll sign</p> <p>3 them, is that it, release?</p> <p>4 MR. SWANSON: Yeah.</p> <p>5 MS. CAULEY: Good.</p> <p>6 MR. SWANSON: Not a problem.</p> <p>7 MS. CAULEY: Okay.</p> <p>8 MR. SWANSON: Just want to make sure we get a</p> <p>9 copy of it when they issue it.</p> <p>10 MS. CAULEY: Fair enough.</p> <p>11 BY MS. CAULEY:</p> <p>12 Q Did you meet at a restaurant with -- no, wait a</p> <p>13 minute, no, let's, that's, I don't want to get to</p> <p>14 that yet, this has got to wait.</p> <p>15 Have you ever, do you know of any children</p> <p>16 of board members who have been employed at Co-Op?</p> <p>17 A Yes.</p> <p>18 Q Who?</p> <p>19 A Janna Garrison, this is before my time as CEO but</p> <p>20 Garrison and I think -- Garrison is all I know of.</p> <p>21 Q Okay. And that was before you were CEO?</p> <p>22 A Uh-huh.</p> <p>23 Q Is that a yes?</p> <p>24 A That's a yes, I'm sorry.</p> <p>25 Q Okay. You were not the CEO when Janna Garrison's --</p>	<p style="text-align: center;">Page 116</p> <p>1 Q Okay. When you felt that you could not longer trust</p> <p>2 Marc Stepp, what did you mean by that that you</p> <p>3 couldn't trust him? Did you feel like you didn't</p> <p>4 have his support anymore?</p> <p>5 A I didn't know whether I had his support anymore.</p> <p>6 Q Okay. Why do you think you were fired from Co-Op?</p> <p>7 A A series of events. Being, going on medical, having</p> <p>8 this coup take place by Benson, Ted Lang, Nicole</p> <p>9 Nault, Andy Broder, Larry Gardiner.</p> <p>10 Then, shortly after that, I went, I needed</p> <p>11 time, medical time off that exceeded two weeks and I</p> <p>12 felt that I was fired because I was off too long.</p> <p>13 And then after adding Ben Edwards to</p> <p>14 interim president CEO, the documentation that they</p> <p>15 were requesting from me from home.</p> <p>16 Q I'm sorry, I don't know what you mean by that, what?</p> <p>17 A Well, I received a series of emails from Ben saying</p> <p>18 I would like all corporate information to return to</p> <p>19 the corporate office, anything related to Co-Op</p> <p>20 Optical, return to the corporate office. And over</p> <p>21 and over again, I will be putting this person in</p> <p>22 charge per Ray Murphy, the chairman of the board,</p> <p>23 interim chairman of the board per Ray Murphy.</p> <p>24 So it looks like the writing was on the</p> <p>25 wall.</p>
<p style="text-align: center;">Page 115</p> <p>1 that would be her son, right?</p> <p>2 A Right, he was brought in by -- he was brought in by</p> <p>3 Ken Morris.</p> <p>4 Q Okay. Who recommended Ben Edwards to be the acting</p> <p>5 president and CEO, if you know?</p> <p>6 A I don't know.</p> <p>7 Q You didn't recommend him?</p> <p>8 A No. We, I -- no.</p> <p>9 Q Did you recommend him to be the interim president</p> <p>10 and CEO? Maybe I'm using the term wrong, did you</p> <p>11 recommend him to take over your place while you were</p> <p>12 on leave?</p> <p>13 A Yes.</p> <p>14 Q Okay. For what position were you recommending him?</p> <p>15 A Interim.</p> <p>16 Q Interim?</p> <p>17 A Uh-huh.</p> <p>18 Q President and CEO, is that right?</p> <p>19 A Correct.</p> <p>20 Q Okay. And why did you recommend him?</p> <p>21 A Because he was basically the most honest and the</p> <p>22 next, the next, honest and truthful and loyal</p> <p>23 executive and I felt he would treat people fairly.</p> <p>24 Q Okay. Loyal to whom?</p> <p>25 A Loyal to the company.</p>	<p style="text-align: center;">Page 117</p> <p>1 Q Okay. But do you think you were fired in part</p> <p>2 because of the documentation or is that just another</p> <p>3 thing that led you to the belief that you were on</p> <p>4 the way out?</p> <p>5 A It was just to led me to the belief.</p> <p>6 Q Okay. So then I think -- and tell me if I'm wrong,</p> <p>7 please.</p> <p>8 A Sure.</p> <p>9 Q That you believe you were fired because of the coup</p> <p>10 and because you took a medical leave exceeding two</p> <p>11 weeks?</p> <p>12 A Correct.</p> <p>13 Q Okay. I would like every fact of which you are</p> <p>14 aware to support your belief that you were fired</p> <p>15 because you took a week, you took a leave in excess</p> <p>16 of two weeks.</p> <p>17 A Well, being off, I wasn't working at Co-Op Optical,</p> <p>18 there was an interim leadership, all these things</p> <p>19 were coming out.</p> <p>20 I had fired Ted, they had brought Ted</p> <p>21 back.</p> <p>22 And basically being off under family</p> <p>23 medical leave.</p> <p>24 Q Okay. Other than the fact that you were off on</p> <p>25 family medical leave --</p>

Page 118

- 1 A Uh-huh.
- 2 Q Do you know of anything other than what you've said
- 3 to support a belief that you were fired because you
- 4 were off on leave, other than the fact that you were
- 5 off on leave?
- 6 I mean, did anyone say to you if you take
- 7 FMLA leave, we're going to fire you or no one -- no
- 8 one walks out of here and leaves this place
- 9 unattended and goes off on an FMLA leave?
- 10 Something like -- is there anything like
- 11 that that happened that made you connect you going
- 12 off on leave and being fired?
- 13 A Marc Stepp would call me and continuously ask me
- 14 when am I coming back, I thought I told you to come
- 15 back in two weeks.
- 16 And that was said to me several, several,
- 17 several, several different times.
- 18 Q Okay. Tell me each and every occasion when Marc --
- 19 A I don't remember each and every occasion.
- 20 Q Excuse me, could I finish my question, please?
- 21 A I thought you were.
- 22 Q No. When Marc Stepp called you and asked when you
- 23 were coming back?
- 24 A February through March.
- 25 Q And how often did he call you?

Page 119

- 1 A Several times. I didn't take count.
- 2 Q Was anyone else on the phone or hearing both ends of
- 3 the conversation while you were having these
- 4 conversations with him?
- 5 A Not to my knowledge.
- 6 Q Did he ever tell you that you were going to be fired
- 7 if you didn't come back?
- 8 A No, he asked me to resign.
- 9 Q Okay. And that was, what, in mid March, right?
- 10 A The first indication was early March.
- 11 Q Okay. Did he tell you why he was asking you to
- 12 resign?
- 13 A He was, I believe he -- no.
- 14 Q Okay. You have a belief as to why, okay, what is
- 15 your belief?
- 16 A Because I was off.
- 17 Q Okay.
- 18 A And I wasn't there.
- 19 Q Okay. I need to know the basis for that belief.
- 20 Did he say anything to the effect of, you know,
- 21 you've got to resign, you're not here, you know,
- 22 you're off on this leave, you got to get out of
- 23 here?
- 24 A He said, god dammit, when you coming back.
- 25 Q Okay.

Page 120

- 1 A And I said, I don't -- my medical leave states April
- 2 1, 2010. That was over the phone.
- 3 Q Okay. And you don't remember how many times this
- 4 happened, these phone calls?
- 5 A No.
- 6 Q From February to March?
- 7 A No.
- 8 Q Assume for purposes of this question, the record
- 9 later will bare it out, it hasn't been on the record
- 10 now that Mr. Stepp is going to deny that that
- 11 occurred.
- 12 Can you help me with any other information
- 13 that would support your position that it did occur?
- 14 A No.
- 15 Q Okay, all right. Is there anything else on which
- 16 you base your belief that you were fired because you
- 17 took an FMLA leave?
- 18 A It was, it was -- no. It was two weeks earlier than
- 19 when I was supposed to come back when I was
- 20 terminated. I really -- no, I don't have an answer
- 21 for you.
- 22 Q Okay. Do you believe, is it your belief that if you
- 23 had not taken an FMLA leave, you would not have been
- 24 fired?
- 25 A Yes.

Page 121

- 1 Q Okay. On what do you base that belief?
- 2 A Because I was not doing a bad job. I was loyal to
- 3 the Board, I felt I was loyal to my staff and tried
- 4 to do everything I could for them.
- 5 Q Before you went on -- I'm sorry, did you finish?
- 6 Okay, is that a yes?
- 7 A Yes.
- 8 Q Okay. Before you went on leave, had you received
- 9 any criticism about the way you had been doing your
- 10 job? Let's say from December 1st until when you
- 11 went on leave did anyone criticize you?
- 12 A Yes.
- 13 Q Who criticized you?
- 14 A Charles Benson.
- 15 Q Anyone else?
- 16 A Ted Wernarski.
- 17 Q That's Winiarski?
- 18 A Whatever. I'm sorry. Wininarski.
- 19 Q Okay.
- 20 A Ted.
- 21 Q Anyone else?
- 22 A No.
- 23 Q Any board members?
- 24 A No.
- 25 Q No board members questioned the way you were doing

Page 122

1 your job or criticized you about the way you were
 2 doing your job?
 3 A No.
 4 Q Okay. Now you said that you also believed you were
 5 fired because of this coup, is that right?
 6 A Correct.
 7 Q What is the coup to which you are referring?
 8 A I'm referring to the time on December 5th when Ted,
 9 Charles, Nicole Nault, Larry Gardiner, Andy Broder,
 10 Tom Montiglione got together and came up with these
 11 accusations that I was taking money from the company
 12 and I was doing some other things that are listed in
 13 the complaint. I call it the Charles Benson's case.
 14 Q Okay.
 15 A So he could become CEO.
 16 Q Okay. How long had you believed that Charles was
 17 out to become CEO?
 18 A Well, I was grooming him to be CEO.
 19 Q Okay. Well?
 20 A So he always had that in mind. In our first
 21 interview, that's one of the first things he told me
 22 is that one of the things he would one day want to
 23 do was to run a company or run the company.
 24 And I thought -- and that's not an unusual
 25 answer.

Page 123

1 Q Uh-huh.
 2 A So I just think he wanted it a little bit faster
 3 than what it was intended to be.
 4 Q Okay. Did you hire Charles Benson?
 5 A I sure did.
 6 Q Did you hire Ted Winiarski?
 7 A No.
 8 Q Did you hire Larry Montiglione?
 9 A That's two people. It's Tom Montiglione.
 10 Q Oh, Tom, thank you, Tom Montiglione.
 11 A No. I was a part of, I was part of the interview
 12 process but the CFO made the ultimate decision.
 13 Q Okay. Was he someone that you wanted to work with,
 14 Tom Montiglione?
 15 A Yes.
 16 Q Okay. How about Larry Gardiner, did you bring him
 17 in?
 18 A Yes.
 19 Q Okay. How about Andy Broder?
 20 A Andy Broder has, was grandfathered in, he had been
 21 in there ever since Ken Morris.
 22 Q Did you find, prior at least to December 5th, that
 23 you worked well with Andy Broder?
 24 A Yes.
 25 Q Okay. So what part of your, I mean, you think you

Page 124

1 were fired in part because of this coup. What about
 2 the coup do you think led to your firing?
 3 A It led to a long investigation, it led to people not
 4 being able to work together in harmony. It brought
 5 the Board in to where we paid over six thousand
 6 dollars in one month in fees where they only receive
 7 like fifty dollars per meeting and there is only a
 8 few board members.
 9 And then because of this, I, mentally and
 10 emotionally, I started feeling well (sic) so I went
 11 on family medical leave. It was just, it was just
 12 too much and I needed to break.
 13 Not only that, prior to that I had been
 14 working anywhere from sixty to eighty hours per
 15 week, sometimes six, seven days a week.
 16 Q So with this coup, okay, that was going on and all
 17 the things that flowed from that, all the
 18 difficulties, the allegations, the lack of loyalty,
 19 the lack of support, you think if you had stayed and
 20 not gone on leave you wouldn't have been fired
 21 because of that, is that right?
 22 A I can't say that. I hope not.
 23 Q But you don't know?
 24 A No.
 25 Q Okay. Any other factors, other than what you've

Page 125

1 told me? And if you want to repeat yourself you're
 2 welcome to but you don't have to, it's on the record
 3 and I'm not trying to ask you to do so that's why I
 4 say anything else.
 5 Any other factors on which you base your
 6 belief that you were fired in part because you took
 7 family medical leave?
 8 A The actions of the Board. They voted me out.
 9 Q Okay.
 10 A Or terminated me immediately.
 11 I'm sure the State of Michigan was
 12 notified and told that I was terminated per my
 13 absence or something, I'm not sure because we had to
 14 tell them everything.
 15 Q The State was notified --
 16 A I'm not sure but if -- if Ted was, if Ted is doing
 17 his job then there should be, it should have been
 18 informed by to the State.
 19 Q I can tell you that the Board will testify that you
 20 were not terminated for your absences. So do you
 21 think they still told the State that you were
 22 terminated because you were absent?
 23 A I have no idea.
 24 Q You just made that up?
 25 A I made that up.

Page 126

- 1 Q Oh, okay. Other than the fact that the Board
2 terminated you, I'm trying to understand why you
3 think you were terminated because you were on FMLA
4 leave?
- 5 A **I have no more answers for you under this subject.**
- 6 Q Okay, good, thanks.
- 7 Q Other than, obviously, your termination that
8 occurred -- I believe on March 19th, is that
9 correct, 2010?
- 10 A **Yeah.**
- 11 Q Was there anything else that happened at that
12 meeting or immediately after that meeting that you
13 thought was inappropriate or wrong or --
- 14 A **Yes, I heard Marc Stepp say, I know it's hard for
15 her husband to get anything out of her. And it was
16 in a sexual content.**
- 17 Q What was the sexual content?
- 18 A **He was talking about sex from me, as if I was to,
19 like, if I was stubborn enough -- everybody, people
20 were there and they heard it. He said, I bet it's
21 hard for her husband to get it from, get it, get
22 it -- I'm trying to say what he said. To get it,
23 get any, get any from her, get any from her.**
- 24 Q And he said that to whom?
- 25 A **He was telling that to Ray but there were other**

Page 127

- 1 **people around like Bernie Adams and Janna Garrison
2 was there and also John Elliot heard it, too.**
- 3 Q To get any from her?
- 4 A **Uh-huh.**
- 5 Q Is that a yes?
- 6 A **Yes. Sorry.**
- 7 Q Okay. And this was after you had been terminated by
8 the Board?
- 9 A **Yes, as I was walking out of the room.**
- 10 Q Okay. You also allege in your complaint that you
11 were retaliated against because you took FMLA leave.
12 I just want to understand. Are the facts
13 that support that the same facts that support I was
14 fired because I took FMLA leave?
- 15 A **Yes.**
- 16 Q They're not something different?
- 17 A **No.**
- 18 Q Okay. Is there anything other than your termination
19 that you feel was a form of discrimination or
20 retaliation because you took FMLA leave? Did any
21 other bad things happen to you because you took the
22 leave or was that it?
- 23 A **I'm sorry, say that again.**
- 24 Q I'll try. I'll try to make it clearer but I thought
25 it was sort of clear. Anyway --

Page 128

- 1 A **It wasn't to me.**
- 2 Q You said that you believe you were fired in part
3 because you took FMLA leave?
- 4 A **Yes.**
- 5 Q Did any other bad thing happen to you at Co-Op
6 because you took FMLA leave, other than your firing?
- 7 A **Personally?**
- 8 Q I guess, because you're a person. Anything happen
9 to you?
- 10 A **A lot of things happened.**
- 11 Q I mean, I'm sorry, did Co-Op do anything else to you
12 other than fire you?
- 13 A **That's what I was trying to clear up from you.**
- 14 Q Okay. Yeah, thank you, yeah.
- 15 A **You're welcome. No.**
- 16 Q Okay. You also allege in your complaint -- and if
17 you want to look at it you can. But you allege that
18 Co-Op interfered with your FMLA leave. And that's
19 at paragraph forty-six if you want to look at it.
- 20 A **It should say CEO.**
- 21 Q Oh, then, well, let me catch up with you. Okay.
- 22 A **It says account executive.**
- 23 Q Oh, as account executive, you're right.
24 Co-Op engaged in a prohibited act under
25 FMLA by preventing Smith -- oh, I'm sorry, I gave

Page 129

- 1 you the wrong paragraph. We can talk about that
2 one, too but I meant to say forty-five.
- 3 A **Okay.**
- 4 Q Oh, no, I don't. Oh, that's where, I'm sorry,
5 that's where your complaint refers to interfere
6 with. All right.
- 7 MR. SWANSON: What paragraph are we on?
- 8 MS. CAULEY: Forty-six.
- 9 BY MS. CAULEY:
- 10 Q Let's get it -- I'll read it for the record, please
11 tell me if I'm reading this wrong, okay?
- 12 Co-Op Optical engaged in a prohibited act
13 under the FMLA by preventing Smith from resuming her
14 position as account executive -- which should be
15 CEO, that was the intent.
- 16 And then there's the cite to 29 USC
17 Section 2614.
- 18 Other than preventing, well, the
19 preventing you from resuming your position as
20 account executive, that was your termination, right?
- 21 A **Uh-huh.**
- 22 Q Is that a yes?
- 23 A **Yes.**
- 24 Q Okay. Is there anything else that Co-Op did to
25 interfere with, restrain or deny your rights under

<p style="text-align: center;">Page 130</p> <p>1 the FMLA other than by terminating you?</p> <p>2 A No.</p> <p>3 Q Okay, all right. Here's where we were when it</p> <p>4 looked like we were going in a different direction</p> <p>5 which we were.</p> <p>6 In May 2009, remember I started to take</p> <p>7 you back there?</p> <p>8 A Uh-huh.</p> <p>9 Q Do you recall traveling anywhere by plane in 2009?</p> <p>10 A Could have.</p> <p>11 Q Okay. Well, let me ask you this. When you traveled</p> <p>12 by air, what class ticket did you purchase?</p> <p>13 A First class.</p> <p>14 Q Okay. And --</p> <p>15 A Or I used my perks or either I helped, I gave my</p> <p>16 perks to Ted.</p> <p>17 Q Okay. But it's accurate that you purchased either</p> <p>18 first-class tickets or upgrades and you charged them</p> <p>19 to the company --</p> <p>20 A Not all the times.</p> <p>21 Q -- on occasion.</p> <p>22 A Right.</p> <p>23 Q On occasion?</p> <p>24 A Yes.</p> <p>25 Q Okay. Did anyone authorize you to travel first</p>	<p style="text-align: center;">Page 132</p> <p>1 supervision by OFIR?</p> <p>2 A As long as the price of the tickets were not</p> <p>3 exorbitant and usually they were not. Armida was</p> <p>4 very good at getting deals.</p> <p>5 Q Okay.</p> <p>6 A And I -- Ted's, I tried to give him first class to</p> <p>7 accommodate him.</p> <p>8 Q Were --</p> <p>9 A Oh, and Ben Edwards, I offered him first class, he</p> <p>10 took it, too.</p> <p>11 Q Okay. And you authorized that for the company, is</p> <p>12 that right?</p> <p>13 A Yes.</p> <p>14 Q For the company to pay for?</p> <p>15 A Yes.</p> <p>16 Q Okay. Back to you, my question again was, and you</p> <p>17 thought that was appropriate to authorize first-</p> <p>18 class travel for yourself or others while the</p> <p>19 company was under supervision by OFIR?</p> <p>20 A Yes.</p> <p>21 Q Okay. Can you see why someone else might not think</p> <p>22 that that was appropriate?</p> <p>23 A No.</p> <p>24 Q Okay. In the fall of 2009 did you go to Las Vegas?</p> <p>25 A I might have, I'm not sure.</p>
<p style="text-align: center;">Page 131</p> <p>1 class when you traveled?</p> <p>2 A No.</p> <p>3 Q Okay. You just did that on your own, is that right?</p> <p>4 A Yes.</p> <p>5 Q Okay. Did you authorize your executives to travel</p> <p>6 first class and charge the company for that?</p> <p>7 A They never asked but I have offered. Yes, yes. In</p> <p>8 answer to your question, yes, I have, I've offered,</p> <p>9 I offered it to Ted.</p> <p>10 Q And to have the company pay for it?</p> <p>11 A Yes.</p> <p>12 Q And he refused?</p> <p>13 A No.</p> <p>14 Q Oh, he accepted --</p> <p>15 A Not all the time.</p> <p>16 Q -- that?</p> <p>17 A Yes.</p> <p>18 Q Oh, he accepted sometimes?</p> <p>19 A Uh-huh.</p> <p>20 Q Okay. And that was your decision to make, you</p> <p>21 think?</p> <p>22 A Yes.</p> <p>23 Q Okay. Do you think that was a good decision to</p> <p>24 travel first class and pay for first-class travel</p> <p>25 out of Co-Op funds while the company was under</p>	<p style="text-align: center;">Page 133</p> <p>1 Q Staying at the Venetian, does that ring a bell?</p> <p>2 A Oh, that's where the conference was, yes.</p> <p>3 Q Okay. So you stayed at the Venetian and did you</p> <p>4 upgrade your room there at the Venetian over the</p> <p>5 standard rate room?</p> <p>6 A At some times I have a suite, yes.</p> <p>7 Q Okay. And the company pays for that?</p> <p>8 A The company pays for that because I have meetings</p> <p>9 sometimes, I invite the employees to come up, too.</p> <p>10 Q Okay. Did you ever upgrade the employees' rooms so</p> <p>11 that they could have the meetings there?</p> <p>12 A They have upgraded their rooms themselves.</p> <p>13 Q And they pay for them themselves?</p> <p>14 A Right. Without my authorization.</p> <p>15 Q But they pay for them themselves?</p> <p>16 A No, they did not.</p> <p>17 Q Okay.</p> <p>18 A The company paid for them.</p> <p>19 Q Oh, who did that?</p> <p>20 A Charles Benson and Ben Edwards.</p> <p>21 Q When did that happen?</p> <p>22 A I don't know. I just -- they just told me that they</p> <p>23 had a suite and I think that was in Las Vegas, too.</p> <p>24 Q Was that in the fall of 2009?</p> <p>25 A Don't know.</p>

Page 134

1 Q Okay. And did you tell them, no, you've got to pay
2 that money back?
3 A No, I did not.
4 Q Did you think it was inappropriate for them to
5 upgrade and charge the company for that?
6 A The amount was, the amount was not, no, the amount
7 was not that big, I did not give them a hassle.
8 Q Okay. So you thought that was okay?
9 A Yes.
10 Q Okay. How long were you in Las Vegas at the
11 Venetian?
12 A I think the conference lasts three days.
13 Q Okay. How much would be a lot of money for an
14 upgrade? I mean, what do -- I don't stay in
15 upgrades, I don't know.
16 A The rooms, well, rooms is probably about four to
17 five hundred dollars a night.
18 Q Is that the upgraded room?
19 A Yes.
20 Q What would a regular room be, do you know?
21 A About three to four hundred dollars a night.
22 Q So about a hundred dollars difference?
23 A Yes.
24 Q Okay.
25 A And I think that's why I didn't bitch with -- excuse

Page 135

1 me for saying that -- with Ben and Charles.
2 Q Okay. While you were on leave, did you have the
3 belief that Ben Edwards was doing a good job as the
4 interim CEO and president?
5 A I have no idea. Shortly after -- no, I have no
6 idea.
7 Q You don't remember writing a letter to Mr. Stepp
8 saying that he was doing a fine job and he was
9 handling everything very well and that he deserved
10 more of a raise than you had even recommended for
11 him?
12 A No, I don't remember that.
13 Q You don't remember that?
14 A No.
15 Q Do you and your husband, do you or did you own a
16 timeshare in Cancun?
17 A Yeah, it was, it was a vacation trips in Cancun.
18 Yeah, Aventura Spa Palace.
19 Q And you own something there or what was the
20 arrangement?
21 A It's that you lease, you pay, you pay a membership
22 fee for ten years and you have the ability to go and
23 stay in an all-inclusive resort. It's valued
24 anywhere from eight to ten thousand dollars for
25 eight days and you receive a reduced rate anywhere

Page 136

1 from fifteen hundred to possibly two thousand
2 dollars a couple.
3 Q And what was the membership?
4 A The membership is called the Aventura Spa Palace,
5 Spa Palace Vacation Packages.
6 Q And how much membership did you pay for ten years?
7 A About thirteen thousand dollars.
8 Q Per year?
9 A Oh. Thirteen thousand dollars for the initial
10 payment and then there was a membership fee every
11 year of about three hundred and some dollars.
12 Q And did you have like monthly fees, like, like,
13 administrative fees or monthly minimum amount that
14 you had to -- I'm sorry, I meant to say yearly,
15 yearly fees other than the membership of three
16 hundred dollars?
17 A The membership fees were monthly.
18 Q Oh, it was three hundred dollars a month?
19 A Yes.
20 Q Okay. So it would be like thirty-six hundred
21 dollars a year, right?
22 A Correct.
23 Q Okay. And you had to pay those whether you stayed
24 there or not?
25 A Correct.

Page 137

1 Q But if you stayed there, did that constitute your
2 payment for that?
3 A No.
4 Q I'm thinking it's some golf courses, I think, you
5 know, you either pay this amount or you use the
6 facilities X amount and that covers it.
7 A No.
8 Q No. So you pay the thirty-six hundred dollars
9 regardless but then if you went there you also had
10 to pay an amount, right?
11 A Yes.
12 Q Okay. And what was the amount you had to pay, the
13 reduced amount?
14 A It depended on the season but it can range in, it
15 can be anywhere from fifteen hundred dollars to over
16 twenty-six hundred dollars.
17 Q For a week?
18 A For a week. For eight days, seven nights.
19 Q Okay. And have you, I mean, can you use that as
20 often as you want?
21 A No, you bought a certain amount of weeks and then I
22 don't remember how many weeks we had.
23 Q Do you still own, are you still members down there?
24 A Yes.
25 Q When was the last time you went?

Page 138

1 A Probably the last time I have gone was probably
 2 2008.
 3 Q Okay. Let me see, in two thousand -- I don't know
 4 the date, eight or nine and maybe you can help me,
 5 did Co-Op send people to this property as a reward?
 6 Some people or --
 7 A We have tenure recognition and employees that did
 8 outstanding jobs we, I gave away four trips with the
 9 approval of the executive staff and with the
 10 executive staff knowing that there would be
 11 additional monies that would be required and Co-Op
 12 would pay those since we own the vacation weeks.
 13 Q Okay. You didn't need the approval of the executive
 14 staff to do this, you're the CEO, right?
 15 A Well, no, we -- I believe in being inclusive so when
 16 we, when we, when we have employee recognition, the
 17 whole executive staff would be in there together and
 18 we would talk about what would happen and what would
 19 be given away, who we would ask for to donate gifts
 20 for our employees, et cetera.
 21 So that was something that was done
 22 collectively and then once it's done collectively it
 23 was turned over to another department to complete.
 24 Q You did not need the approval of the executive staff
 25 in order to decide what to do with the tenure

Page 139

1 recognition --
 2 A We voted.
 3 Q -- of employees, did you? Could you answer my
 4 question, please?
 5 A I am.
 6 Q Did you need the approval of the executive staff in
 7 order to do this?
 8 A I sought it.
 9 Q Did you need -- if you could just answer the
 10 question I ask it would be really helpful.
 11 Did you need the approval to do it or
 12 could you have done it as CEO?
 13 A Yes.
 14 Q Okay, thank you. And did anyone donate anything for
 15 this trip or was this all paid for?
 16 A Oh.
 17 Q By Co-Op?
 18 A For the trip?
 19 Q Yes.
 20 A We donated the trip.
 21 Q Who is we?
 22 A My husband -- we donated our membership so they can
 23 have a reduced fee. It belongs to joint.
 24 Q And what was the value of what you donated?
 25 A If we had to pay for it or if we wanted them to go

Page 140

1 on their own, they would have had to pay a lot more,
 2 we would have paid a lot more money.
 3 We gave our trips every year. So we
 4 donated, we could give away weeks. So we had X
 5 amount of weeks so we gave away weeks to four
 6 different employees. Highest sales, best doctor, et
 7 cetera.
 8 Q Could you answer my question?
 9 A Maybe I don't understand it then.
 10 Q What was the -- and please, if I use any words that
 11 you don't understand or you don't know the meaning
 12 of, I'll be happy to try to explain them.
 13 My question was what was the value of what
 14 you donated.
 15 A Oh, the value?
 16 Q Is there anything -- yes. Is there anything in
 17 there you don't understand?
 18 A You're talking about the value of --
 19 Q Of what you donated.
 20 A Okay.
 21 Q How much --
 22 A Thirteen, thirteen --
 23 Q -- did it cost you to donate?
 24 A Thirty-six hundred dollars a year and thirteen
 25 thousand dollars in purchasing the vacations. I

Page 141

1 think it was thirteen thousand. Either thirteen
 2 thousand or either nine, I'm not sure. That's it.
 3 Q So let me see. Thirty-six hundred dollars times ten
 4 and how many years have you been in it as of the --
 5 A No -- and it goes up in interest with interest rates
 6 or prime.
 7 I had owned it, we have owned it about
 8 four years. We pay three hundred and some dollars a
 9 week, a month. And we paid a major down payment
 10 while we were there.
 11 So I don't know what you want me to say.
 12 That's all I can really answer for you.
 13 Q I'm asking you the value of what you gave away.
 14 A I just said. To me, thirty-six thousand, about,
 15 that would have been -- no, I'm sorry. Thirteen --
 16 about sixteen.
 17 Q Fourteen thousand, thirty-six hundred times four
 18 would be fourteen thousand. So you're saying for
 19 four years so you're saying you gave away both the
 20 initial, the eight, the thirteen thousand dollars
 21 added to the forty-four thousand which is fifty-
 22 seven, you gave away fifty --
 23 A No, I didn't give -- it's not giving it away. That
 24 was the value of being a member there.
 25 Q That's what I asked.

<p style="text-align: center;">Page 142</p> <p>1 A It's like a country club.</p> <p>2 Q I asked you what was the value of the donation.</p> <p>3 A From me? Zero.</p> <p>4 Q What was the value of the donation from Larry?</p> <p>5 A Zero. Because I'm not sure of what you're saying.</p> <p>6 (Document Marked for Identification as</p> <p>7 Defendant's Exhibit No. 16)</p> <p>8 BY MS. CAULEY:</p> <p>9 Q Do you know who drafted this?</p> <p>10 A Marketing.</p> <p>11 Q Was it set with your approval?</p> <p>12 A No, I didn't see this until the day of the</p> <p>13 employees' recognition.</p> <p>14 Q Was it set with your, was it distributed with your</p> <p>15 approval?</p> <p>16 A I handed them out, yes.</p> <p>17 Q It says Jackee and her husband Larry Smith provided</p> <p>18 these wonderful prizes.</p> <p>19 What did you provide?</p> <p>20 A I provided four trips at a reasonable price to four</p> <p>21 groups of great employees that I felt, that we felt</p> <p>22 that was deserving of these prizes.</p> <p>23 Q What did you provide? Other than Co-Op, take away</p> <p>24 what Co-Op paid for.</p> <p>25 A Uh-huh.</p>	<p style="text-align: center;">Page 144</p> <p>1 BY MS. CAULEY:</p> <p>2 Q Okay. And then in 2008 was -- well, do you know how</p> <p>3 much this whole thing came to?</p> <p>4 A About ten thousand dollars.</p> <p>5 Q Okay. Had Co-Op ever paid ten thousand dollars for</p> <p>6 tenure recognition trips before?</p> <p>7 A Yes.</p> <p>8 Q When?</p> <p>9 A Oh, over the years.</p> <p>10 Q To whom?</p> <p>11 A To employees.</p> <p>12 Q Who?</p> <p>13 A I don't know.</p> <p>14 Q When?</p> <p>15 A Well, Deborah Murphy has been a recipient of prizes</p> <p>16 for a long time. Ben Edwards had taken trips also</p> <p>17 on for tenure recognition.</p> <p>18 Q And those are things that have been donated by other</p> <p>19 people, is that right?</p> <p>20 A No, Co-Op paid for some of them.</p> <p>21 Q Co-Op has never paid ten thousand dollars for</p> <p>22 recognition gifts ever before this time, isn't that</p> <p>23 right? Co-Op paid? At least while you were CEO?</p> <p>24 A I don't know if I agree with that because I remember</p> <p>25 there was one, there was a few trips that we gave</p>
<p style="text-align: center;">Page 143</p> <p>1 Q What did you provide or Larry?</p> <p>2 A The Spa Palace, our membership benefits.</p> <p>3 Q The employees paid for the room, is that correct? I</p> <p>4 mean, Co-Op paid for the room, is that correct?</p> <p>5 A No. Co-Op did not pay for the room. The fee that</p> <p>6 Co-Op paid for is considered a service fee because</p> <p>7 it's all-inclusive.</p> <p>8 A service fee for gratuities, a service</p> <p>9 fee for the different restaurants there, service fee</p> <p>10 for someone to be with you at all times while you're</p> <p>11 there to be at your, be, to serve you.</p> <p>12 Q Okay. So Co-Op paid that service fee?</p> <p>13 A No, we paid the -- that's, yeah, they paid that</p> <p>14 service fee, you're right.</p> <p>15 Q Okay. Larry and Jackee didn't pay that service fee?</p> <p>16 A No.</p> <p>17 Q And Co-Op paid for their air fare to go to Cancun?</p> <p>18 A Correct.</p> <p>19 Q Okay. And do you know in what year this took place,</p> <p>20 was this in 2009 or 2008?</p> <p>21 I don't think there's any on the document</p> <p>22 if that's what you're looking for.</p> <p>23 A Yeah, it's not -- that's what I'm looking for, too.</p> <p>24 I think this was eight.</p> <p>25 MR. SWANSON: I think it was eight.</p>	<p style="text-align: center;">Page 145</p> <p>1 away that Charles and Ben took. Deborah Murphy took</p> <p>2 about two and they were in the thousands of dollars,</p> <p>3 too.</p> <p>4 So I can't say, I'm not sure.</p> <p>5 Q Okay. When anyone else took a gift that was</p> <p>6 provided by Co-Op, was Co-Op under supervision by</p> <p>7 OFIR such as when this happened?</p> <p>8 A Yes.</p> <p>9 Q Okay. Did you report this to OFIR, that you were</p> <p>10 spending this kind of money for Co-Op?</p> <p>11 A No, we did not.</p> <p>12 Q Okay. Why did you not provide, why did you not seek</p> <p>13 approval from OFIR? Or well, I should ask this, was</p> <p>14 this money spent in the ordinary course of business?</p> <p>15 A Because it was not a contract. OFIR has</p> <p>16 stipulations on certain things that needs to be</p> <p>17 reported. Tenure recognition is not one of them.</p> <p>18 Q Do you understand that OFIR, the spirit of reporting</p> <p>19 for OFIR required that you talk to them about any</p> <p>20 expenditures that are not in the ordinary course of</p> <p>21 business?</p> <p>22 Did you have that understanding?</p> <p>23 MR. SWANSON: Let me just object to the extent</p> <p>24 that that calls for a legal conclusion. There is no</p> <p>25 spirits in agencies, they have regulations and laws,</p>

Page 146

1 that sort of thing to my knowledge.
 2 MS. CAULEY: We don't need a speech, I just
 3 asked her for her belief.
 4 BY MS. CAULEY:
 5 Q Did you have an understanding?
 6 MR. SWANSON: Well, you believe -- wait a
 7 minute. The objection is that you're asking her for
 8 a legal conclusion. Whether you want to call it a
 9 spirit, a regulation or law, it's a legal
 10 conclusion. She's not a lawyer.
 11 If you can answer it, go ahead.
 12 WITNESS: Can't answer.
 13 BY MS. CAULEY:
 14 Q Did you have an understanding that OFIR expected to
 15 know what was going on at Co-Op in terms of the
 16 spending of money?
 17 A In certain areas.
 18 Q In certain areas. So if you're going to make a
 19 capital expenditure of two thousand dollars, they
 20 needed to hear about it, is that right?
 21 A No, we make capital, we made -- this is not
 22 considered a capital expenditure.
 23 Q I know that, that's not what I'm asking you.
 24 If you made a capital expenditure, did you
 25 understand that that had to be reported to OFIR,

Page 147

1 well, that you had to request --
 2 A The CFO, the CFO had to report it.
 3 Q But there had to be a request to spend the money.
 4 Did you understand that, and OFIR had to approve it?
 5 A Okay. Then it should have been sent to the CFO for
 6 approval.
 7 Q Ma'am, that's not my question.
 8 A That's my answer.
 9 Q Did you have -- but I'd like you to answer, please,
 10 my question.
 11 Did you understand that if Co-Op was going
 12 to make a capital expenditure while they were under
 13 supervision of two thousand dollars that they had to
 14 first seek approval from OFIR before they could
 15 spend that money?
 16 A Under capital expenditures, yes.
 17 Q Okay. So your understanding was it was okay to
 18 spend -- it wasn't okay to spend two thousand
 19 dollars by yourself out of capital expenditure but
 20 it was okay to spend ten thousand dollars because it
 21 wasn't called a capital expenditure, is that right?
 22 A Yeah.
 23 Q Okay. Is there a requirement of the weeks that --
 24 you don't remember how many weeks a year you
 25 purchased?

Page 148

1 A No. You don't have that in your documents? I don't
 2 have it. I have it at my home, I haven't looked at
 3 it in a while.
 4 Q Okay. Is there a requirement that if you don't use
 5 all of those weeks that you have to pay an extra fee
 6 or some kind of user fee?
 7 A Oh, no.
 8 Q So you could never go there again as long as you
 9 still pay your thirty-six hundred dollars a year and
 10 never have to spend another dime there?
 11 A Oh, no, I'm sorry. We can go there any -- as long
 12 as our weeks are in existence and within a time
 13 frame, I can go there anytime I want to.
 14 Q Okay, that wasn't my question.
 15 Let's say you purchased ten weeks, okay?
 16 In a year.
 17 A Yeah. I think that's what it was.
 18 Q Oh, I'm just guessing ten weeks, okay?
 19 A Uh-huh.
 20 Q You purchase ten weeks and you use five of them in a
 21 given year.
 22 A Uh-huh.
 23 Q Is there any penalty or any other payment that you
 24 have to make for the five you weren't there and
 25 otherwise spending money?

Page 149

1 A No.
 2 Q No. So if you purchased ten and you didn't go at
 3 all the whole year --
 4 A Uh-huh.
 5 Q -- there would be no additional fee other than the
 6 three hundred dollars a month, is that right?
 7 A Exactly.
 8 Q Okay. So since you said that you didn't -- there
 9 was no value to anything you donated here and no
 10 value to anything your husband donated here, how is
 11 it that we're saying that Jackee and her husband
 12 Larry Smith provided these wonderful prizes?
 13 A Because we paid for the membership and also the
 14 weeks. Those -- no one came up, Co-Op Optical
 15 didn't come up with the money for the membership,
 16 Co-Op Optical didn't come up with the money for the
 17 down payment. That came out of our pockets.
 18 Q Okay. And you can't tell me the difference between
 19 what these recipients would have paid if they didn't
 20 have this membership package --
 21 A What they would pay?
 22 Q -- and what they did --
 23 A I'm sorry?
 24 Q If I could finish my question then maybe we wouldn't
 25 have so many misunderstandings.

Jacqueline Smith

Smith vs Co-Op Optical

December 15, 2010

<p style="text-align: center;">Page 150</p> <p>1 My question to you is, and you can't tell</p> <p>2 me the difference between what these recipients</p> <p>3 would have paid if they had gone without a</p> <p>4 membership and what they paid with the membership,</p> <p>5 is that correct?</p> <p>6 A Yes, I can tell you that.</p> <p>7 Q Yes, you can?</p> <p>8 A Yes.</p> <p>9 Q Then tell me, please, I've asked you.</p> <p>10 A It would have been about eight to thirteen thousand</p> <p>11 dollars a couple.</p> <p>12 Q Eight to thirteen thousand?</p> <p>13 A Dollars per person.</p> <p>14 Q Per person or per couple? You just said two</p> <p>15 different things.</p> <p>16 A Per couple, I'm sorry, per couple.</p> <p>17 Q Per thousand, per couple.</p> <p>18 A Uh-huh.</p> <p>19 Q So if I wanted to go to this vacation place da, da,</p> <p>20 da, da at Aventura whatever Spa, I would have spent</p> <p>21 a minimum of eight thousand dollars plus what Co-Op</p> <p>22 paid for to go there?</p> <p>23 A That's what I understand.</p> <p>24 Q Okay. And your understanding is based on what?</p> <p>25 A On what was explained to us by the sales rep that we</p>	<p style="text-align: center;">Page 152</p> <p>1 capital ever at three hundred?</p> <p>2 A No, it was not nor was it before.</p> <p>3 Q Was it ever over three hundred?</p> <p>4 A No.</p> <p>5 Q Okay. Was it ever over two hundred?</p> <p>6 A Yes.</p> <p>7 Q And for how long had it been under a hundred?</p> <p>8 A Well, that's a very hard question because our former</p> <p>9 CFO tampered with the books so I have really no idea</p> <p>10 how to answer that question.</p> <p>11 Q Okay. When did Mr. Winiarski start?</p> <p>12 A It wasn't him but Ted came in five years ago.</p> <p>13 Q Okay. You think he came in about five years ago.</p> <p>14 From then on what has happened with the RBC?</p> <p>15 A It's been going up and down.</p> <p>16 Q Okay. Did you ever recommend Ben for a raise when</p> <p>17 he was appointed as the interim?</p> <p>18 A Yes.</p> <p>19 Q How much of a raise?</p> <p>20 A I don't remember.</p> <p>21 Q Do you know if he accepted that raise?</p> <p>22 A Yes, he did.</p> <p>23 Q Do you know if he's still being paid that amount</p> <p>24 today?</p> <p>25 A According to -- no, he's not unless something</p>
<p style="text-align: center;">Page 151</p> <p>1 purchased them from.</p> <p>2 Q Can you explain please for us what RBC is?</p> <p>3 A Risk-based capital.</p> <p>4 Q What does that mean?</p> <p>5 A That means that you have, it's kind of like your,</p> <p>6 it's like a reserve or an underwriting for the</p> <p>7 department of OFIR which means that you have to have</p> <p>8 at least a three hundred -- our company had to have</p> <p>9 a three hundred risk-based capital in order to</p> <p>10 operate and be up under, in order to be in</p> <p>11 compliance with the State of Michigan.</p> <p>12 Q What does the three hundred mean, what is risk-based</p> <p>13 capital?</p> <p>14 A That is the amount of business versus dollars that</p> <p>15 we were taking in.</p> <p>16 Q Give me an example.</p> <p>17 A If we have large accounts of fifty thousand people,</p> <p>18 this is an example and there's over a million, it's</p> <p>19 an account of ten million dollars and that's new</p> <p>20 business, we have to have enough money to make sure</p> <p>21 that the claims are going to be paid and that the</p> <p>22 people that are beneficiaries will not be out in the</p> <p>23 cold in case our company goes out of business or</p> <p>24 bellies up or something like that.</p> <p>25 Q Okay. While you were CEO, was the risk-based</p>	<p style="text-align: center;">Page 153</p> <p>1 happened different.</p> <p>2 Q When did that change, if you know?</p> <p>3 A Marc Stepp called me and told me that Ted and Ben</p> <p>4 both went to reduce their salaries. So he said he</p> <p>5 wouldn't take his raise, he went back to what he was</p> <p>6 making, I believe.</p> <p>7 Q When you were on leave did you come up with any</p> <p>8 ideas on how to save Co-Op without the State and</p> <p>9 still be an insurance company?</p> <p>10 A Yes.</p> <p>11 Q What was that idea?</p> <p>12 A The idea was to close the Auburn Hills office and</p> <p>13 also to close half of the surfacing lab which would</p> <p>14 have laid off people, cut down a department, cut</p> <p>15 down a store that was only bringing in seventy-eight</p> <p>16 thousand dollars a year to try to maintain the</p> <p>17 business.</p> <p>18 Q And with whom did you share those ideas if anyone?</p> <p>19 A I shared them with the Board of Directors.</p> <p>20 Q When?</p> <p>21 A Probably, I think that was, could have been either</p> <p>22 late February or March. It was a directive that was</p> <p>23 given to me by the Board while I was on family</p> <p>24 medical leave.</p> <p>25 Q Okay. And how did they respond to that?</p>

39 (Pages 150 to 153)

Page 154

1 A They took it and they didn't say anything. They had
2 two.
3 Q Didn't you share it with anyone else or did you
4 share it with anyone else about that?
5 A I shared it -- no. At that time, I realized there
6 was a camp of enemies so therefore I shared it only
7 with the Board as requested.
8 (Document Marked for Identification as
9 Defendant's Exhibit No. 17)
10 BY MS. CAULEY:
11 Q Have you ever proposed closing the lab prior to that
12 time?
13 A Yes.
14 Q When?
15 A Part of the lab. Since 2007, I believe.
16 Q Okay.
17 A To save money.
18 Q Didn't you, in fact, communicate with Ted and Ben on
19 February 24th that you had an idea on how to save
20 Co-Op without the State and still be an insurance
21 company that you wanted to speak with the two of
22 them about?
23 A Yes, that was the, that was the close, that's the
24 same thing, yes.
25 Q That's the thing that you just told me you didn't

Page 155

1 share with anyone other than the Board because you
2 had enemies out there and you weren't going to talk
3 to them about it, right?
4 A Well, I didn't share it with them because they
5 didn't call me.
6 Q It was your intent to share it with them, wasn't it?
7 You had the idea, you emailed them and said I want
8 to share this idea with you, right?
9 A Yes.
10 Q Okay. But a minute ago you said I wasn't going to
11 share it with anyone because I had enemies and I
12 wasn't going to tell them.
13 A Ben was not my enemy.
14 Q Ted was. You fired him, right?
15 A Well, Ted -- well, Ted would have found out. I just
16 copied -- yeah, I guess you're right.
17 Q Thank you. When you were on leave did you -- and
18 let's just put this before your husband sent the
19 letter to Ben saying don't contact her anymore.
20 Did you communicate, did you initiate
21 communications with people at Co-Op?
22 A Yes.
23 Q Fairly regular basis?
24 A Yes, until I got bawled out by Ben.
25 Q Okay. For bothering him so much, right?

Page 156

1 A He said I was, yeah.
2 Q Said you were being a pest?
3 A Yeah.
4 Q Yeah, okay. When you were on --
5 A And then also Ted.
6 Q When you were on leave, did you, did you expect your
7 executives to be working?
8 A When I was on -- I was hoping so.
9 Q Okay.
10 (Document Marked for Identification as
11 Defendant's Exhibit No. 18)
12 BY MS. CAULEY:
13 Q Did you send this email to Ted, Matt, Tom and
14 others?
15 MR. SWANSON: Which email are you referring to?
16 MS. CAULEY: I'm sorry, Exhibit 18.
17 MR. SWANSON: There are several pages here.
18 BY MS. CAULEY:
19 Q Well, Exhibit 18.
20 A What was sent?
21 Q The last send. Did you send that and the
22 attachments to those folks?
23 A Oh, this was just -- yeah, this is true, I'm
24 thinking about testing it out and there's a smiley
25 face so it was a friendly --

Page 157

1 It was a friendly thing and I know Ted
2 liked dogs. These are people that had cats or dogs
3 at the time or animals.
4 Q And that's how you wanted your executives spending
5 time while you were on leave, right?
6 A No, but I couldn't control the time they were
7 spending when they weren't working either.
8 Q Well, that wasn't my question. You're the CEO, you
9 want them working and you're sending them things
10 like this, is that right? Does that further
11 distract them?
12 A I think that's a question they should be asked.
13 Q Did you expect them to ignore something coming from
14 the CEO?
15 A At that time I was on medical, family medical leave,
16 they could have looked at it if they wanted to.
17 Q And you were still the CEO, weren't you ma'am? In
18 fact, didn't you send people emails saying, I'm
19 still the CEO here?
20 A I said that, yes. And also my --
21 (Document Marked for Identification as
22 Defendant's Exhibit No. 19)
23 BY MS. CAULEY:
24 Q Did you send Exhibit 19 to Ben Edwards, Armida
25 Parisi, Sharmien Scott, Temeng Darko, Tom Dick,

Page 158

1 Cristell Jones, Valerie James, Matt Groen and others
 2 at Co-Op?
 3 A **Date, February 4. Yeah.**
 4 Q And that's an eighteen-page document with pictures
 5 of pets, correct?
 6 A **Uh-huh.**
 7 Q Is that a yes?
 8 A **Yes. If I may add, these are a group, I had a list**
 9 **of friends because I see personal names on here as**
 10 **well so these are not Co-Op Optical people, these**
 11 **are just people that I casually talk with so these**
 12 **are not all Co-Op Optical people.**
 13 **Lee Settle, he's in North Carolina. Lucy**
 14 **Patel is in Miami Beach, Florida. A lot of these**
 15 **people are out of state.**
 16 **So these are just people that I kind of**
 17 **converse with so these are not necessarily all**
 18 **employees, they just were a part of my contact**
 19 **group.**
 20 Q I never said it was all Co-Op employees, did I?
 21 Didn't I list the names and say, and others?
 22 A **I don't remember you saying that but you may have.**
 23 Q Is Ben Edwards an employee or was he on February 4,
 24 2010 an employee of Co-Op?
 25 A **Yes.**

Page 159

1 Q Melvin Evans?
 2 A **Yes.**
 3 Q Scott J. McFall, where was he from?
 4 A **He's from OFIR.**
 5 Q Oh, he was from OFIR?
 6 A **Uh-huh.**
 7 Q Okay. Armida Parisi, was she a Co-Op employee at
 8 the time?
 9 A **Uh-huh.**
 10 Q Is that a yes?
 11 A **Yes.**
 12 Q Mervin Hawk, yes or no?
 13 A **Yes.**
 14 Q Bernard Davis, yes or no a Co-Op employee?
 15 A **Bernard Davis, I don't know if he was working for**
 16 **Co-Op at that time.**
 17 Q Okay. Sammie Morrison?
 18 A **He -- that's outside.**
 19 Q Okay. Sherold Riddles?
 20 A **I believe she had been terminated.**
 21 Q Okay, that's a relative of yours, right?
 22 A **Yes.**
 23 Q Shapira Scott?
 24 A **That's a relative.**
 25 Q Sharmien Scott?

Page 160

1 A **Relative.**
 2 Q Was she working at Co-Op at the time?
 3 A **Yes. No, she was terminated also.**
 4 Q Had Sherold Scott worked at Co-Op at some time?
 5 A **Shapira?**
 6 Q Sherold Riddles, I'm sorry, thank you.
 7 A **Sherold Riddles, yes, but she was terminated as**
 8 **well.**
 9 Q Shapira Scott, did she ever work at Co-Op?
 10 A **No.**
 11 Q Okay. Temeng Darko, he worked at Co-Op, right?
 12 A **Correct.**
 13 Q Tom Dick worked at Co-Op?
 14 A **Yes.**
 15 Q What about Bernice McLodden?
 16 A **Yes, but this is her home email, I believe.**
 17 Q Cristell Jones worked at Co-Op?
 18 A **Yes.**
 19 Q Valerie James worked at Co-Op?
 20 A **Yes.**
 21 Q Matt Groen worked at Co-Op?
 22 A **Yes.**
 23 Q Michelle Torrence?
 24 A **No.**
 25 Q D. Higgins?

Page 161

1 A **No.**
 2 Q Lucy Patel?
 3 A **No.**
 4 Q Is Lucy Patel related to any physician that you've
 5 seen?
 6 A **No.**
 7 Q Lee Settle?
 8 A **No.**
 9 Q Okay. So at least what, six or eight of these
 10 people, whatever the number is worked at Co-Op, is
 11 that right?
 12 A **Yeah.**
 13 Q And you sent them an eighteen-page email five
 14 minutes after noon, isn't that right, on February
 15 4th?
 16 A **Yeah, that was an error.**
 17 Q It was an error?
 18 A **Yeah.**
 19 Q You never meant to send it to them?
 20 A **I never meant to contact Co-Op.**
 21 Q You sent it to employees at Co-Op?
 22 A **Right. It's on your email, it's like, I have a**
 23 **group of friends or group of people that we shared**
 24 **different things like this with each other.**
 25 **It's not that these people that are on the**

Page 162

1 same list that has not shared things with me. So
 2 everybody on this list has sent something to me
 3 similar to this or like this and it was shared with
 4 me so therefore I put them in this particular group
 5 which means I sent it back.
 6 Q Wasn't the issue that you are sending your
 7 executives and employees who work for you
 8 nonbusiness-related emails, extensive ones, in the
 9 middle of a workday while you're not there but
 10 they're there and supposed to be working and you're
 11 sending it to them and you think that's okay, is
 12 that right?
 13 A Well, let me say it like this to you.
 14 I don't think it's okay that our CFO goes
 15 on Amazon.com and buy things and presents and stuff
 16 like that and have them shipped to our office. I
 17 don't think it's okay that there are other things
 18 that they do and in groups of office that is
 19 unrelated to Co-Op Optical.
 20 There's a lot of things that they do not
 21 do, they should not do but I feel if they're doing a
 22 job, sometimes -- there's no employee in the world
 23 that I think that works eight consecutive hours in a
 24 day.
 25 So therefore, if I may say, that if this

Page 163

1 was sent out, you always have a right to delete it
 2 if it's a large email or not.
 3 So I was not intending for them to stop
 4 their work and send it out. Technically, I was off
 5 on family medical leave and if they felt the way
 6 they felt -- if Ted received this -- by now I have
 7 found out Ted was a part of the coup to try to get
 8 rid of me so he probably was not taken out of that
 9 contact list and any and some of the others, too.
 10 But even sending it to Scott McFall, that
 11 was, that was just an error.
 12 So if it's a big deal and this is -- you
 13 think that I, this is how I run the office then
 14 you're totally mistaken. It was just a contact
 15 group and I had no idea who was in that contact
 16 group because it does not list each and every one of
 17 their names.
 18 Q Who set up the contact group?
 19 A I did but that doesn't mean that I have to remember.
 20 Q Is it fair to say that at least during the month of
 21 November 2009 you sent out at least one of these
 22 types of emails every single day to a contact group?
 23 A Maybe I did.
 24 Q How many letters did Mr. McGowan send to you?
 25 A I don't know, I don't remember.

Page 164

1 Q Have you produced all of them here in connection
 2 with this case?
 3 A If I have them, they are with my attorneys so I
 4 don't know.
 5 Q Do you know what documents were produced to us on
 6 your behalf?
 7 A Do I know what documents that were produced to you?
 8 Q Yes, ma'am.
 9 A On my behalf?
 10 Q Yes, by your attorneys.
 11 A Not all, I'm not sure.
 12 Q Okay.
 13 A I know that Blair had sent a letter or two, I'm not
 14 sure.
 15 Q Oh, it's a letter or two now? Because before you
 16 said he was sending all these letters so now it's a
 17 letter or two?
 18 A I said Blair has been sending a letter or two,
 19 letters to me all my life since I've been knowing
 20 him.
 21 Q Since December 1, 2009, how many letters has Blair
 22 McGowan sent to you?
 23 A Don't know, don't remember.
 24 (Document Marked for Identification as
 25 Defendant's Exhibit No. 20)

Page 165

1 BY MS. CAULEY:
 2 Q Who prepared Exhibit 20?
 3 A Probably Matt.
 4 Q When you say probably, did he, I mean, do you know
 5 that for a fact or who provided the information, I
 6 guess I should ask?
 7 A I don't -- let me check my attendance records you
 8 gave me to see if I was there.
 9 Q I don't think I gave you any attendance records.
 10 A You gave me a record saying I was off.
 11 Q Saying that you asked for paid time off.
 12 A Right.
 13 Q Not that you were off.
 14 A Well --
 15 Q And you said you don't know if you were there or
 16 not.
 17 A I think I said I wasn't there.
 18 So if this was on 2-3-2010, I was off sick
 19 for eight hours, I didn't prepare this letter.
 20 Q Was it prepared at your direction?
 21 A No. As you can very well see, I am cc'd on it.
 22 Q Oh, so it was to be -- this was a letter then from
 23 Senator Raymond Murphy?
 24 A I guess so.
 25 Q Do you know anything about it?

Page 166

1 A Yeah, I read it.
 2 Q When? Before it went out or --
 3 A No, I just read it now. I'm reading it now, I've
 4 seen it before in the past, though.
 5 Q But you didn't see it before it went out or you did?
 6 A No, I don't think it went out. See, it says hold on
 7 there, I don't know who put that on there.
 8 Q You don't recognize the handwriting?
 9 A Uh-uh, no.
 10 Q Okay. So it's your belief that Exhibit 20 or at
 11 least this letter, in effect, never went out, is
 12 that right?
 13 A I'm not, I don't know. I don't know. I know that
 14 there's a letter that was similar to this that they
 15 put my name on there, too.
 16 Q Where was your name? Well, your name is on here?
 17 A As the, as the -- I know. But as the sender.
 18 Q Okay. And you had nothing to do with any of that?
 19 A It looks like it was a duplicate, I think Raymond
 20 Murphy could not come in and sign the letter.
 21 It, yeah, it says it right here, Matt
 22 Groen wrote this letter. Raymond Murphy, the
 23 initials under Raymond Murphy is Raymond Murphy and
 24 Matt Groen so that was, this is Raymond Murphy's
 25 letter and they may have told me to put my name on

Page 168

1 I've seen this letter before and then I
 2 think I seen this letter before with my name on it,
 3 too.
 4 Q Okay. Did you ever sign a letter?
 5 A Probably someone told me to sign it, yes.
 6 Q Okay. But it wasn't your idea?
 7 A This is not, this is not, this is, this is not my
 8 technique of writing, this is not my style.
 9 Q Okay. Did you have any discussions with anyone
 10 before this letter was sent out, either verbally or
 11 by email, to decide how it should go or anything
 12 like that?
 13 A No, I wasn't in the office.
 14 Q What is your home email address?
 15 A Jackee2311@comcast.net
 16 Q Okay.
 17 (Document Marked for Identification as
 18 Defendant's Exhibit No. 21)
 19 BY MS. CAULEY:
 20 Q Please review this string of emails starting at the
 21 back working forward and tell me when you're done
 22 reviewing it.
 23 Weren't you, in fact, involved in the
 24 preparation and the sending of this letter, contrary
 25 to what you just testified?

Page 167

1 it.
 2 Q Okay. And it shows the MJG refers to --
 3 A Matt.
 4 Q -- the signal for someone who types a letter, right?
 5 A Uh-huh.
 6 Q Is that a yes?
 7 A Yes.
 8 Q Does it also -- but you believe he also put the
 9 words down?
 10 A There's an RM in there that means Raymond Murphy.
 11 Q So you believe Raymond Murphy put the words down?
 12 A I know I didn't.
 13 Q Okay. Did you have anything to do with, any
 14 involvement at all in the preparation of this or the
 15 sending out of this letter?
 16 A No.
 17 Q It was all done unbeknownst to you?
 18 A Right.
 19 Q Is that right?
 20 A Yes.
 21 Q Okay. But I can't remember what you said, did you
 22 say you did see it before, if it went out or
 23 something?
 24 A I seen something -- no, no, to be, you know, I'm not
 25 trying to be difficult.

Page 169

1 A Not in the preparation but in the signing and the
 2 sending probably.
 3 Q Contrary to what you just testified to, is that
 4 correct?
 5 A No, I'm not going to say that, I don't agree with
 6 that, I'm sorry.
 7 Q Didn't you just say a few minutes ago that you had
 8 nothing to do with the preparation or the deciding
 9 of who should sign this or getting this out?
 10 A Well, I said Ray Murphy should stop by and sign the
 11 letter. Matt had wrote the letter up, it appears
 12 that Matt wrote the letter on Armida's behalf
 13 possibly.
 14 Q Didn't you, in fact, direct him to write the letter?
 15 A No, no.
 16 Q And tell him what to put in it, in essence?
 17 A No, no, no.
 18 Q So if he says that you did, he's lying?
 19 A Well, that's what happens.
 20 Q Have you ever known Matt Groen to lie about
 21 anything?
 22 A No, he's not a liar.
 23 Q In fact, he asked you how are we going to handle the
 24 signature, who should sign it, right?
 25 A Uh-huh.

Page 170

1 Q Is that a yes?
 2 A Yes.
 3 Q And you said Ray Murphy should sign the letter,
 4 right?
 5 A Yes.
 6 Q Did it ever go out under Ray Murphy's signature?
 7 A I don't know, it says hold.
 8 (Document Marked for Identification as
 9 Defendant's Exhibit No. 22)
 10 BY MS. CAULEY:
 11 Q Is that your signature on the second page of Exhibit
 12 No. 22?
 13 A Yes.
 14 Q And that's the letter to which we've just been
 15 referring, is that right?
 16 A Yeah.
 17 Q Do you know if that letter was ever sent?
 18 A This one was sent, yes. As you can see, it was five
 19 days later, though. Oh, this is different. No.
 20 Twenty-one, twenty-two.
 21 Q You testified earlier that you never thought that
 22 Ben Edwards should receive more of a raise than what
 23 was already being recommended, right?
 24 A Excuse me?
 25 Q That he should have got -- yeah. Remember

Page 171

1 testifying earlier and I just want to make sure I
 2 have it right, that when you were on -- I'll just
 3 ask it straight out.
 4 When you were on leave --
 5 A Uh-huh.
 6 Q -- did you indicate to anyone that Ben Edwards
 7 should get more of a raise than what you were
 8 recommending, that he was, in essence, doing a great
 9 job and should get more money for what he's doing?
 10 A No, not to my knowledge. I feel, I feel that, you
 11 know, we, everybody was underpaid.
 12 Q Okay. But you never specifically singled him out
 13 and said he should get more money, even though we
 14 can't afford it, you know?
 15 A Not to my knowledge.
 16 Q Okay.
 17 A I don't remember.
 18 Q Okay.
 19 (Document Marked for Identification as
 20 Defendant's Exhibit No. 23)
 21 BY MS. CAULEY:
 22 Q Do you see in Exhibit 23, in the second paragraph
 23 where you indicate, as he temporary takes over the
 24 position of president and CEO, I think that there
 25 should be a higher compensation. But at this time,

Page 172

1 whereas our finances are concerned, this is the most
 2 I can go without exceeding our budget or pro forma.
 3 However, I believe he deserves a lot more than what
 4 he is about to receive.
 5 Does that refresh your recollection of
 6 whether you ever recommended that he receive more
 7 money than he was about to get?
 8 A February 15th. Yeah, I think he should have, I
 9 think, I think he should have received more than
 10 what he was receiving.
 11 Q That isn't what I asked you before. I asked if you
 12 had ever told anyone that and you said no, you
 13 didn't believe so.
 14 So now do you see that you did, in fact, tell
 15 Mr. Stepp that?
 16 A I see that. I think that that may have said it but
 17 this is not my signature.
 18 Q So did you authorize this letter to be sent?
 19 A I don't remember.
 20 Q Did you ever know Armida Parisi to send out a letter
 21 on your behalf that you had not authorized?
 22 A Yes.
 23 Q What letters did Armida Parisi ever send out that
 24 you hadn't authorized?
 25 A Oh, there are several different memos and things

Page 173

1 that Armida sent out that I didn't never really
 2 reviewed.
 3 Q Okay. I --
 4 A So but it was not related to this case.
 5 Q Wait, wait, okay. I'm sorry, I've got to back up
 6 because I didn't ask you if you had ever known her
 7 to send out a letter that you hadn't reviewed.
 8 I asked if you ever knew her to send out a
 9 letter that you hadn't authorized.
 10 A No.
 11 Q Do you believe you authorized this letter which is
 12 Exhibit 23?
 13 A I believe so.
 14 Q At the end of January or the very first part of
 15 February, like January, January 29th, did you ever
 16 tell anyone that they had to keep it confidential
 17 that you were going on leave?
 18 A I don't remember.
 19 Q Did you have any reason for people not to know that
 20 you were going on leave?
 21 A I don't remember that either.
 22 Q Did you ever remember directing anyone not to tell
 23 Ted that you were going to go on leave?
 24 A I don't remember that.
 25 (Document Marked for Identification as

<p style="text-align: center;">Page 174</p> <p>Defendant's Exhibit No. 24)</p> <p>1 BY MS. CAULEY:</p> <p>2 Q Exhibit 24, Temeng Darko sent you an email on</p> <p>3 February 1st. It says, again, I apologize for</p> <p>4 mentioning that you may be out on leave to Ted. I</p> <p>5 will keep this message confidential. Thanks.</p> <p>6 Do you know to what he was referring</p> <p>7 there?</p> <p>8 A Yes. My medical leave.</p> <p>9 Q You told him don't tell Ted I'm going on medical</p> <p>10 leave?</p> <p>11 A No, because Ted was being fired.</p> <p>12 Q So you told him on the 29th not to tell Ted that you</p> <p>13 would be on leave?</p> <p>14 A And the person below is the person that I was hiring</p> <p>15 as a CFO candidate.</p> <p>16 Q Could you just stick to my question, please?</p> <p>17 I want to be clear, you told Temeng</p> <p>18 Darko --</p> <p>19 A Uh-huh.</p> <p>20 Q -- not to tell the CFO that you were going to be out</p> <p>21 on leave because you were firing the CEO, is that</p> <p>22 right?</p> <p>23 MR. SWANSON: CEO?</p> <p>24 MS. CAULEY: CFO, sorry, thank you.</p> <p>25</p>	<p style="text-align: center;">Page 176</p> <p>1 Q And did you hire him?</p> <p>2 A Tried to.</p> <p>3 Q And why didn't you hire him?</p> <p>4 A Because they turned around and rehired Ted.</p> <p>5 Q In fact, didn't OFIR indicate that Mr. Parikh was</p> <p>6 not a suitable candidate?</p> <p>7 A No, they did not say he was not a suitable</p> <p>8 candidate. He said that he was a part of an</p> <p>9 organization that they had to -- he was a CFO at the</p> <p>10 time that they took the takeover.</p> <p>11 He -- and Parikh had explained to me and I</p> <p>12 believed it, believed what he said in order with</p> <p>13 that takeover and I thought he was the best</p> <p>14 candidate because he knew and he also provided some</p> <p>15 wonderful information on how to work with the State</p> <p>16 of Michigan.</p> <p>17 Q Did Ted or Matt ever advise you about whether you</p> <p>18 should ask for bonuses for people at the end of 2009</p> <p>19 before you went to the personnel committee?</p> <p>20 A No, that was Ted and -- Ted and Charles.</p> <p>21 Q Okay. And what was their advice?</p> <p>22 A They said that we shouldn't, that maybe we shouldn't</p> <p>23 get bonuses but I think they were thinking about</p> <p>24 thousands. Only, they were only a hundred and fifty</p> <p>25 and two hundred dollars.</p>
<p style="text-align: center;">Page 175</p> <p>1 BY MS. CAULEY:</p> <p>2 Q CFO.</p> <p>3 A Yes.</p> <p>4 Q Okay. When had you decided to hire Ashok,</p> <p>5 A-S-H-O-K, Parikh?</p> <p>6 A Parikh.</p> <p>7 Q P-A-R-I-K-H.</p> <p>8 A He was coming in a few days after Ted was leaving.</p> <p>9 About, probably about a week after Ted was</p> <p>10 terminated.</p> <p>11 Q I'm pretty sure that wasn't my question.</p> <p>12 MS. CAULEY: Can you tell me what it was?</p> <p>13 (Whereupon the question was played back by the</p> <p>14 court reporter.)</p> <p>15 BY MS. CAULEY:</p> <p>16 Q When had you decided to hire Ashok Parikh?</p> <p>17 A Probably the beginning of January or mid January.</p> <p>18 Q Had you told anyone about that?</p> <p>19 A The Board had some knowledge.</p> <p>20 Q Who on the board knew that you were going to hire</p> <p>21 Ashok Parikh?</p> <p>22 A The personnel committee.</p> <p>23 Q Constituted of who?</p> <p>24 A Marc Stepp, Ray Murphy was there and I think Letha</p> <p>25 Lardy may have been there if I'm not mistaken.</p>	<p style="text-align: center;">Page 177</p> <p>1 Q How do you know what they were thinking about?</p> <p>2 A Because that's how it was in the past.</p> <p>3 They thought I was going -- Ted has a</p> <p>4 tendency to panic so he had, they think of thousands</p> <p>5 of dollars when you say bonuses.</p> <p>6 The bonuses were a hundred and fifty, two</p> <p>7 hundred and three hundred dollars.</p> <p>8 Q Do you know for a fact what Ted or Charles had in</p> <p>9 their mind when they advised you not to ask for</p> <p>10 bonuses?</p> <p>11 A I have no idea what Charles and Ted was thinking.</p> <p>12 The only thing I know they were thinking was to try</p> <p>13 to eliminate me.</p> <p>14 Q When did you first believe that some of the</p> <p>15 executives were plotting against you?</p> <p>16 A When I found a copy of the letter from Andy Broder</p> <p>17 at the public fax machine and then a day or two</p> <p>18 later I received an anonymous letter from an outside</p> <p>19 source which I don't know where it came from with a</p> <p>20 copy of the letter in there.</p> <p>21 Q That was when you first believed that they were</p> <p>22 plotting against you?</p> <p>23 A Oh, it was in writing.</p> <p>24 Q That isn't what I asked you. I asked you --</p> <p>25 A Yes.</p>

Page 178

1 Q -- when did you --
 2 A Yes.
 3 Q When did you first believe that Charles and Ted were
 4 plotting against you?
 5 A I found out probably December 8th.
 6 Q So before that you had no concerns about them
 7 plotting against you?
 8 A No, I considered them very loyal employees.
 9 Q You never believed that Charles Benson was out to
 10 get your job before then?
 11 A He surprised me the most.
 12 Q You never believed that Charles Benson was out to
 13 get your job prior to that?
 14 A No.
 15 Q Okay. Prior to December 2009 -- and I'm not
 16 suggesting that you believed it at that time but
 17 prior to that date, did you ever have a belief that
 18 the State was going to take over Co-Op?
 19 A No.
 20 Q Did you ever tell anyone prior to that date that the
 21 State was in danger of taking over Co-Op?
 22 A No.
 23 Q You never told Bob Morris in 2006 that the State was
 24 going to take over Co-Op?
 25 A No, I told -- no.

Page 179

1 Q You never told him in December 2009 that the State
 2 was going to take over Co-Op?
 3 A No.
 4 Q So if he says that he's lying?
 5 A He is lying.
 6 Q Has he lied about -- do you know him to be quite a
 7 liar?
 8 A I don't know. Yeah, now I do.
 9 Q Oh, because of what I just said?
 10 A Yes.
 11 Q Oh, but prior to that you never thought he would
 12 lie?
 13 A Yes.
 14 Q Oh, you knew him to be a liar prior to that?
 15 A Not a liar but a lie.
 16 Q You knew him to be a lie?
 17 A Liar and lie to me is two different things.
 18 Somebody can tell a lie but then there's a habitual
 19 liar.
 20 Q Oh, what --
 21 A So which one you think I'm -- which one are you
 22 talking about?
 23 Q I'm sorry, I didn't mean to interrupt.
 24 You say you're talking about a lie. So
 25 you knew Bob Morris to tell a lie prior to five

Page 180

1 minutes ago?
 2 A Uh-huh.
 3 Q What lie did he tell?
 4 A When we had a meeting in my office between he and
 5 myself and we talked over about the company and he
 6 was agreeing with me. But on the other hand when
 7 the votes came down, he was one that voted against
 8 everything. So to me he was just blowing smoke,
 9 some of the things that he was saying.
 10 Q What's the lie in there?
 11 A When someone says I agree with this, I agree with
 12 that or agree with what you're saying about saving
 13 the company.
 14 Q Uh-huh.
 15 A And then turn around and believe that I cannot save
 16 the company and vote against me, to me, there's some
 17 untruth to that.
 18 Q Did he tell you in the meeting that he supported you
 19 and that he would vote in favor of keeping you, in
 20 the meeting in your office?
 21 A We never -- we couldn't say that because we never
 22 knew about the vote, ma'am.
 23 Q So did he ever tell you I will never, I will never
 24 want to get rid of you and then he voted to get rid
 25 of you?

Page 181

1 A We never spoke on that.
 2 Q Okay. Were you ever told by any board member to
 3 stop hiring friends and relatives?
 4 A Uh-huh, yes.
 5 Q Who told you that?
 6 A They didn't say that, they just -- the compensation
 7 committee said that that might be a policy that
 8 we'll put in place.
 9 Q They never told you to stop doing it?
 10 A No, not directly, I have nothing in writing that
 11 says that.
 12 Q Do you know a Sue Ellen Eisenberg?
 13 A Yes, I do.
 14 Q Who is she?
 15 A She's a friend of mine.
 16 Q Uh-huh.
 17 A She's an attorney.
 18 Q Uh-huh.
 19 A And she's a wonderful lady.
 20 Q Okay. Do you have an attorney/client relationship
 21 with her?
 22 A I talked to her about this case before I retained
 23 Dan Swanson and Jesse Phillips and we went over some
 24 things.
 25 Q Jesse Young.

<p style="text-align: center;">Page 182</p> <p>1 A I'm sorry.</p> <p>2 WITNESS: What did I call you?</p> <p>3 MR. YOUNG: Phillips.</p> <p>4 WITNESS: Jesse.</p> <p>5 MR. YOUNG: Young.</p> <p>6 WITNESS: Young. Sorry about that.</p> <p>7 BY MS. CAULEY:</p> <p>8 Q Are you sure?</p> <p>9 A I'm getting like you.</p> <p>10 So I know Sue Ellen very, very well.</p> <p>11 Q Okay. When did you first contact her about this</p> <p>12 case?</p> <p>13 MR. SWANSON: Well, hold on for a second.</p> <p>14 MS. CAULEY: I'm just asking when she contacted</p> <p>15 her, I'm not asking what they talked about.</p> <p>16 MR. SWANSON: Contacted her about this case --</p> <p>17 MS. CAULEY: Well, she's the one that said she</p> <p>18 did that.</p> <p>19 MR. SWANSON: -- which references to the</p> <p>20 content of communication. So that does go to the</p> <p>21 attorney/client privilege.</p> <p>22 BY MS. CAULEY:</p> <p>23 Q When was the first time in 2010 that you contacted</p> <p>24 Sue Ellen Eisenberg for anything?</p> <p>25 A I don't know, it was in the wintertime because I</p>	<p style="text-align: center;">Page 184</p> <p>1 guess what I want to ask is, does this have anything</p> <p>2 to do with the Benson lawsuit?</p> <p>3 A Yeah.</p> <p>4 MR. SWANSON: Counsel, before we go into</p> <p>5 further questions on this, I want to confer with my</p> <p>6 client for a second.</p> <p>7 WITNESS: I think, I'm not sure.</p> <p>8 MR. SWANSON: To make sure we can deal with</p> <p>9 this, if there is a privilege or if it's applicable</p> <p>10 or not then we can --</p> <p>11 MS. CAULEY: Okay.</p> <p>12 MR. SWANSON: Take five minutes.</p> <p>13 (Whereupon an off-the-record discussion was</p> <p>14 held.)</p> <p>15 (Document Marked for Identification as</p> <p>16 Defendant's Exhibit No. 26)</p> <p>17 BY MS. CAULEY:</p> <p>18 Q Here's Exhibit No. 26 and I ask you if you sent that</p> <p>19 email to Matt Groen?</p> <p>20 A Yes.</p> <p>21 Q Okay. And that was in relationship to what's been</p> <p>22 marked as Exhibit No. 25?</p> <p>23 A No, this was done at home.</p> <p>24 Q And so was this email, correct, sent from home?</p> <p>25 A Yeah, but I wouldn't have, I wouldn't send this to</p>
<p style="text-align: center;">Page 183</p> <p>1 remember she had on a fur coat.</p> <p>2 Q That would be Sue Ellen.</p> <p>3 A And red glasses.</p> <p>4 Q Did you contact her while you were on leave and</p> <p>5 still working at Co-Op?</p> <p>6 A Yes.</p> <p>7 Q Okay.</p> <p>8 (Document Marked for Identification as</p> <p>9 Defendant's Exhibit No. 25)</p> <p>10 BY MS. CAULEY:</p> <p>11 Q Have you seen this document before?</p> <p>12 A Uh-huh.</p> <p>13 Q Is that a yes?</p> <p>14 A Yes. I'm sorry, I am so sorry I keep doing that.</p> <p>15 Yes.</p> <p>16 Q Did you prepare this document?</p> <p>17 A Yes, I finally started a time line.</p> <p>18 Q Okay, I'll ask the questions, if I may.</p> <p>19 What was the purpose in preparing this</p> <p>20 document?</p> <p>21 A To give her some type of idea what was going on.</p> <p>22 Q Okay. And going on about what?</p> <p>23 A About what was going on at Co-Op Optical. I just</p> <p>24 needed some professional advice.</p> <p>25 Q Okay. With you or with everyone? Was this -- I</p>	<p style="text-align: center;">Page 185</p> <p>1 Matt.</p> <p>2 Q So if he said that you did, that wouldn't be the</p> <p>3 truth that he'd said that you sent it to him to</p> <p>4 proofread or rewrite and add the dates, that you'd</p> <p>5 pick it up tomorrow?</p> <p>6 A See, this is impossible because see, well, one is</p> <p>7 dated the 18th, the other is dated the 22nd.</p> <p>8 Q Uh-huh.</p> <p>9 A And I wouldn't send this to Matt.</p> <p>10 Q So if he said you did then he's wrong?</p> <p>11 A Yeah. This is a home document, I know that one for</p> <p>12 sure. That was, that was for another attorney.</p> <p>13 Q Okay. Well, then can you explain why it got into</p> <p>14 Matt Groen's possession?</p> <p>15 MR. SWANSON: Well, that lacks foundation. We</p> <p>16 don't know that it is in, was in Groen's possession.</p> <p>17 MS. CAULEY: Well, the record is going to</p> <p>18 reflect that because that's what he produced.</p> <p>19 BY MS. CAULEY:</p> <p>20 Q So if, in fact, assume for purposes of the question</p> <p>21 that it was in Matt Groen's possession.</p> <p>22 A Uh-huh.</p> <p>23 Q Assume that the record is going to show that. Can</p> <p>24 you explain how it got in his possession, how</p> <p>25 Exhibit 25 got there if you didn't send it along</p>

<p style="text-align: center;">Page 186</p> <p>1 with Exhibit 26?</p> <p>2 A Unless it was sent in error because this is</p> <p>3 basically from my attorneys, that has nothing to do</p> <p>4 with Matt.</p> <p>5 Q Well, so if it got sent in error, it got sent by you</p> <p>6 in error --</p> <p>7 A I will also send you a copy --</p> <p>8 Q Excuse me.</p> <p>9 A -- of the lawsuit to see if -- I'm sorry, ma'am.</p> <p>10 Q If it was sent in error, it was sent by you in</p> <p>11 error, is that correct?</p> <p>12 A Yeah.</p> <p>13 Q Is it like you to send something that you consider</p> <p>14 to be between you and your attorney, to send it to</p> <p>15 Matt Groen in error?</p> <p>16 A It could have happened, I was having a migraine</p> <p>17 headache.</p> <p>18 MR. SWANSON: Counsel, I've got a concern with</p> <p>19 this whole line of questioning based upon the email,</p> <p>20 Exhibit 26. It says attachment, it references a</p> <p>21 date 2-22-2010 period doc.</p> <p>22 MS. CAULEY: Well, that's a doc number, yeah.</p> <p>23 MR. SWANSON: But then the document Exhibit 25</p> <p>24 that you're asserting is apparently the attachment</p> <p>25 that was dated February 18, 2010.</p>	<p style="text-align: center;">Page 188</p> <p>1 believe or understand why, how this could have</p> <p>2 gotten to Co-Op, other than it was sent by you in</p> <p>3 error?</p> <p>4 A The only thing that I know is that Kathy Bogas told</p> <p>5 me that she knew Ted because he had came into her</p> <p>6 office to file suit against Co-Op Optical. She is</p> <p>7 the only other person that I know that has this</p> <p>8 document.</p> <p>9 MS. CAULEY: Maybe Co-Op, Kathy Bogas gave it</p> <p>10 to you?</p> <p>11 MR. WINIARSKI: Uh-uh.</p> <p>12 BY MS. CAULEY:</p> <p>13 Q So Kathy Bogas has now breached her confidentiality</p> <p>14 with Ted Winiarski by telling you that he came in to</p> <p>15 talk to her, right? That's what you're putting on</p> <p>16 the record here?</p> <p>17 MR. SWANSON: Well, that's not what she said.</p> <p>18 She's not an attorney. Kathy Bogas may have told</p> <p>19 her these things. Whether that was a breach or not,</p> <p>20 God only knows. I don't know what the understanding</p> <p>21 is there.</p> <p>22 MS. CAULEY: That's what I'm asking.</p> <p>23 MR. SWANSON: You'll have to ask Kathy and Ted</p> <p>24 or I'll ask Ted, I imagine.</p> <p>25 BY MS. CAULEY:</p>
<p style="text-align: center;">Page 187</p> <p>1 WITNESS: That's what I'm saying.</p> <p>2 MS. CAULEY: Uh-huh.</p> <p>3 MR. SWANSON: So I'm a little confused. I</p> <p>4 mean, we've got no foundation that's clear that I</p> <p>5 can see that ties 26 and 25 together as we sit here</p> <p>6 today.</p> <p>7 MS. CAULEY: I'm just trying to understand how</p> <p>8 Exhibit 25 got in the possession of anyone at Co-Op</p> <p>9 other than your client. If you can explain that</p> <p>10 because we've got it and we had it and we're giving</p> <p>11 it to you and showing you, so, you know.</p> <p>12 MR. SWANSON: But you're asking, I think, her</p> <p>13 to really speculate. But, you know, if she's got</p> <p>14 some idea, I'm not going, I'm going to let her</p> <p>15 testify to that but --</p> <p>16 MS. CAULEY: And you're right, it is, you know,</p> <p>17 I am asking for speculation.</p> <p>18 BY MS. CAULEY:</p> <p>19 Q Can you help us understand?</p> <p>20 A Can I ask him a question right quick?</p> <p>21 Q No, not while I'm asking a question.</p> <p>22 MR. SWANSON: You've got to answer her</p> <p>23 question.</p> <p>24 BY MS. CAULEY:</p> <p>25 Q Can you understand, do you have any reason to</p>	<p style="text-align: center;">Page 189</p> <p>1 Q Well, we can put these aside for now, those</p> <p>2 exhibits, I'm not going to ask any more questions</p> <p>3 about that.</p> <p>4 Did you ever accept any gifts or</p> <p>5 gratuities from individuals while you were working</p> <p>6 at Co-Op through which you had, you know, business</p> <p>7 relationships.</p> <p>8 A Such as?</p> <p>9 Q Any kind of gift or gratuity more than a cup of</p> <p>10 coffee, a cookie, cake, candy?</p> <p>11 A I don't remember.</p> <p>12 Q Okay. Do you have a Pistons ring, a sport ring?</p> <p>13 A Oh, yeah.</p> <p>14 Q Yeah, who did you get that from?</p> <p>15 A Ben Wallace.</p> <p>16 Q And was that while you had business relationship</p> <p>17 with the Pistons and/or the Palace in terms of</p> <p>18 advertising, et cetera?</p> <p>19 A No, that was, no, we were in New York and there were</p> <p>20 thirty tequila shots and he said that if I could</p> <p>21 drink thirty tequila shots that he would give me a</p> <p>22 ring. He took off his ring and showed me his ring</p> <p>23 or, you know, have it made up.</p> <p>24 I couldn't take thirty tequila shots but</p> <p>25 he gave them to me, I took a couple, two or three,</p>

<p style="text-align: center;">Page 190</p> <p>1 I'm not sure and I got a ring.</p> <p>2 Q Why were you in New York with Ben Wallace?</p> <p>3 A To go see the Pistons game along with the New York</p> <p>4 Nicks, I think it's what they're called.</p> <p>5 Q And who paid for that trip?</p> <p>6 A I guess the Palace. Cindy went with me, Cindy</p> <p>7 Merenick.</p> <p>8 It was a part of a package, they sent all</p> <p>9 their vendors to one of the games that are close to</p> <p>10 home. There were several employees I sent before to</p> <p>11 different places.</p> <p>12 Q That was a gratuity you accepted from the Palace, is</p> <p>13 that right, the trip to New York?</p> <p>14 A Yes.</p> <p>15 Q Did you accept any other gratuities while you were a</p> <p>16 member, while you were the chairman of the board,</p> <p>17 I'm sorry, the CEO from anyone with whom Co-Op was</p> <p>18 doing business?</p> <p>19 Maybe, I'll suggest maybe you think about</p> <p>20 the list of things that were removed from your</p> <p>21 office and given back to you. Were there any things</p> <p>22 in all those that were given to you?</p> <p>23 A I haven't gone through those boxes yet.</p> <p>24 Q Did you have anything in your office, ma'am, that</p> <p>25 were gifts from people with whom Co-Op did</p>	<p style="text-align: center;">Page 192</p> <p>1 A Yes.</p> <p>2 Q So you didn't think that that was a policy that as a</p> <p>3 CEO you should enforce at Co-Op, is that correct?</p> <p>4 A Most of them are glasses. Yeah.</p> <p>5 Q Glasses?</p> <p>6 A Yeah.</p> <p>7 Q Like eye glasses?</p> <p>8 A Yes.</p> <p>9 Q Like other people were giving you eye glasses?</p> <p>10 A They would market, market them. Everybody received,</p> <p>11 even Ted received eye glasses. Everybody received</p> <p>12 eye glasses.</p> <p>13 Q You allowed --</p> <p>14 A Frames.</p> <p>15 Q You allowed that in violation of --</p> <p>16 A I didn't know --</p> <p>17 Q -- company policy?</p> <p>18 A I didn't know about it until our operations person</p> <p>19 did that, I didn't do that. I received some and the</p> <p>20 operations person would give glasses out to others.</p> <p>21 Q And you allowed it to happen?</p> <p>22 A I found out about it later.</p> <p>23 Q What did you do about it? Did you enforce the</p> <p>24 policy?</p> <p>25 A I didn't tell, I didn't tell Ted and them to give</p>
<p style="text-align: center;">Page 191</p> <p>1 business --</p> <p>2 A No.</p> <p>3 Q -- that you took with you?</p> <p>4 A Not to my knowledge.</p> <p>5 Q So other than this one trip to New York, which was a</p> <p>6 gratuity from the Palace, you're telling us there</p> <p>7 were no other gifts from anyone with whom Co-Op did</p> <p>8 business that you received personally?</p> <p>9 A I'm telling you I don't remember until you brought</p> <p>10 up the ring.</p> <p>11 Q Is it contrary to Co-Op policy for you to accept</p> <p>12 gifts other than something which was nominal like</p> <p>13 cookies or candy?</p> <p>14 A You're telling me that, you're asking me a question?</p> <p>15 Q I'm asking you if that was against Co-Op policy for</p> <p>16 any Co-Op employee to accept a gratuity from someone</p> <p>17 with whom you did business other than a nominal gift</p> <p>18 such as cookies or candy?</p> <p>19 A I believe that is a policy.</p> <p>20 Q Okay. Did you ever violate that policy?</p> <p>21 A Yes.</p> <p>22 Q Did you ever allow others to violate that policy?</p> <p>23 A Others have violated that policy.</p> <p>24 Q Did you ever allow others to violate that policy and</p> <p>25 have it go unanswered?</p>	<p style="text-align: center;">Page 193</p> <p>1 their glasses back. They're still doing it now.</p> <p>2 Q Did you do anything to enforce the policy?</p> <p>3 A No.</p> <p>4 Q And you violated the policy on more than one</p> <p>5 occasion. Now you're telling us you got glasses,</p> <p>6 too, right?</p> <p>7 A I have glasses, yes. So does the board members.</p> <p>8 Q And you allowed that to happen?</p> <p>9 A I guess. The board members are my bosses.</p> <p>10 Q I've got to ask you, you really think it's okay as</p> <p>11 the CEO to violate the company policy and allow</p> <p>12 others to do it? Is that -- how do I understand</p> <p>13 that?</p> <p>14 A You just, well, you don't understand, ma'am, is that</p> <p>15 your Board would fire you in a blink of an eye.</p> <p>16 Q The Board would fire you if you didn't let Ted keep</p> <p>17 a pair of glasses that someone gave him?</p> <p>18 A They may have, I'm not sure. They fired me before</p> <p>19 from family medical leave.</p> <p>20 Q How long were you the CEO?</p> <p>21 A From 2003 until 2010.</p> <p>22 Q Almost seven years?</p> <p>23 A Uh-huh.</p> <p>24 Q In that time, were you ever fired before March 19,</p> <p>25 2010?</p>

<p style="text-align: center;">Page 194</p> <p>1 A No.</p> <p>2 Q When did you first learn of a letter that had been</p> <p>3 composed or that has been presented to the Board by</p> <p>4 Andy Broder concerning some alleged -- well, raising</p> <p>5 some concerns about your conduct?</p> <p>6 A I found that letter on the fax machine on December</p> <p>7 8th, I believe.</p> <p>8 Q So the same day it was dated, is that right?</p> <p>9 A I think it was dated December 5th, if I'm not</p> <p>10 mistaken.</p> <p>11 Q Well, the records are going to show it's December</p> <p>12 8th, just, I mean, you'll see it.</p> <p>13 A Well, I saw it on the -- yeah, I think it was the</p> <p>14 9th.</p> <p>15 Q You saw it on the 8th, okay. I just don't want you</p> <p>16 to be tripped, I mean, it's going to say it but --</p> <p>17 A Okay.</p> <p>18 Q What fax machine?</p> <p>19 A The fax machine that's in the back near our copy</p> <p>20 machine, the public fax that everybody can use.</p> <p>21 Q Public that I can walk in off the street and use?</p> <p>22 A Well, no, you could not, you're not an employee but</p> <p>23 there's --</p> <p>24 Q I'm a member of the public, though, so it's not a</p> <p>25 public --</p>	<p style="text-align: center;">Page 196</p> <p>1 until you went on leave, did you show that letter to</p> <p>2 anyone?</p> <p>3 A Yes, I showed it to Sue Ellen.</p> <p>4 Q Okay. Other than an attorney because you don't need</p> <p>5 to tell me about that.</p> <p>6 Other than to an attorney, did you show that</p> <p>7 letter to anyone? Like, did you show it to anyone</p> <p>8 at Co-Op? How's that, I'll narrow it down.</p> <p>9 A I didn't show it to anyone at Co-Op.</p> <p>10 Q Okay. Did you ever share any of the contents --</p> <p>11 A Well, you know, I don't know, I might have given it</p> <p>12 to Matt.</p> <p>13 Q Okay. When did you give it to Matt?</p> <p>14 A I said I might have, I'm not sure, ma'am.</p> <p>15 Q Okay.</p> <p>16 A I might have.</p> <p>17 Q Okay.</p> <p>18 A I might have given it to Matt because Matt carries,</p> <p>19 keeps all the documents. I might have shown it to</p> <p>20 him and maybe have given him a copy.</p> <p>21 Q Well, if you might have done it, do you have any</p> <p>22 sense of when you might have done that?</p> <p>23 A When I probably, probably maybe the next day or if</p> <p>24 it was the next week after I found it on the fax</p> <p>25 machine.</p>
<p style="text-align: center;">Page 195</p> <p>1 A It's the public employee fax machine.</p> <p>2 Q Okay, it's the employee fax machine, all right.</p> <p>3 A Uh-huh.</p> <p>4 Q As opposed to a fax machine that's in someone's</p> <p>5 office?</p> <p>6 A Correct.</p> <p>7 Q Okay, got it. And what time of day did you find it</p> <p>8 there?</p> <p>9 A I was there until about, about 6:00, 7:00 when I</p> <p>10 went back to fax something and saw it on there.</p> <p>11 Q Did you remove it?</p> <p>12 A Yes, I did.</p> <p>13 Q Okay. And you kept it?</p> <p>14 A Yes, I did.</p> <p>15 Q Okay. Do you know who put it there?</p> <p>16 A No, I don't.</p> <p>17 Q Do you have any facts to support a conclusion that</p> <p>18 any board member put it there?</p> <p>19 A Uh-uh, no.</p> <p>20 Q Is that a no? Okay.</p> <p>21 A No.</p> <p>22 Q Did you show that letter to anyone? And let's say</p> <p>23 like within that week, we'll start there. Well, no,</p> <p>24 let's make it a little bit bigger than that.</p> <p>25 From December 8th you said you saw it,</p>	<p style="text-align: center;">Page 197</p> <p>1 Q Okay. And you gave it to him for what purpose?</p> <p>2 A Just for record.</p> <p>3 Q Okay. Did you give it to him in a sealed envelope?</p> <p>4 A Probably so. And slit --</p> <p>5 Q Are you guessing?</p> <p>6 A I'm guessing.</p> <p>7 Q Okay.</p> <p>8 A And usually what I would do is -- that is kind of</p> <p>9 like the procedure, I would put things in a sealed</p> <p>10 envelope and slide it up under his door because his</p> <p>11 door was always locked.</p> <p>12 Q Okay. Did you say on the envelope, do not open?</p> <p>13 A No, I just said that -- I don't know what I said and</p> <p>14 I'm not sure if I gave it to Matt to be honest with</p> <p>15 you.</p> <p>16 Q Okay.</p> <p>17 A So I'm kind of, I'm kind of foggy in that area.</p> <p>18 Q And understanding and acknowledging your foggy</p> <p>19 about that, I'm just trying to get some</p> <p>20 understanding.</p> <p>21 Was it, if in fact you gave it to him, was</p> <p>22 it your intent that he would read the letter?</p> <p>23 A Well, being in the meeting and recording, I think he</p> <p>24 was already aware of the letter, recording for the</p> <p>25 Board. So I didn't think it was, if I gave it to</p>

Page 198

- 1 Matt, I don't think it would have been a surprise to
2 him.
- 3 Q Okay. So you believe that Matt was in that meeting
4 and recording what occurred with the Broder letter?
- 5 A Yes.
- 6 Q Okay. Did he ever tell you that?
- 7 A No, I just know he disappears and when -- because he
8 worked, his job was to take the minutes for the
9 Board of Directors whether I was there or not.
- 10 Q Okay, okay. Did you ever share the -- understanding
11 that the only person you may have shown it to other
12 than an attorney is Matt and you're not sure about
13 that, did you ever share the contents, either some
14 or all of the contents of that letter with anyone?
- 15 A Yes.
- 16 Q With whom?
- 17 A The executive --
- 18 Q Other than an attorney.
- 19 A The executive staff.
- 20 Q Okay.
- 21 A I read it to them.
- 22 Q Oh, you read the letter to the executive staff?
- 23 A Yeah, a few, couple of weeks, a week or two later,
24 yeah.
- 25 Q Why did you do that?

Page 199

- 1 A To let them know what was going on.
- 2 Q Okay. Did anyone tell you you had to tell them, you
3 had to read the letter to them?
- 4 A No.
- 5 Q Okay. Prior to reading the letter to the members of
6 the executive staff -- and who were those members,
7 by the way?
- 8 A Charles Benson, Ted Winiarski, Ben Edwards, Dr.
9 Joshua Lang and Matt Groen.
- 10 Q Okay.
- 11 A Well, he, no, Matt was not the executive staff, he
12 was the recorder. I'm sorry.
- 13 Q Okay, all right. But he was at that meeting?
- 14 A Yes.
- 15 Q Yes, okay. Prior to reading that letter to them
16 whenever it was -- well, first of all, was it at an
17 executive staff meeting?
- 18 A Yes.
- 19 Q Okay, that helps. Prior to that meeting, had you
20 heard from anyone about what was in that letter?
- 21 Other than you having read it, had anyone come to
22 you and said, well, we know what was in that letter?
- 23 A Yeah. Raymond Murphy said something about it, I
24 don't remember what it was.
- 25 Q Okay. I'm sorry, I should have said other than a

Page 200

- 1 member of the board.
- 2 A Oh. No, ma'am. My spouse.
- 3 Q Because you shared that with him?
- 4 A Yes.
- 5 Q Were there any rumors prior to you telling the
6 Board, I'm sorry, your executive staff? Prior to
7 reading them the letter, were there any rumors about
8 what was in the letter?
- 9 A Oh, yes.
- 10 Q Okay. What were those rumors?
- 11 A I had heard that I had used my credit card and spent
12 six million dollars, I had taken money from the
13 company. I was -- Charles Benson is going to be the
14 president of the company.
- 15 Ted told me himself that he doesn't want
16 to -- it wasn't him, he didn't want to be CEO and it
17 was Charles.
- 18 And that's -- rumors, people were asking
19 me questions. Were we being taken over by the
20 State. A lot, almost, whooh, I want to say if you
21 say a number, over twenty people shortly after that
22 asked me questions and then more questions came
23 after that because I had an open-door policy.
- 24 But I did not share any of the contents of
25 the letter with any of the employees or staff.

Page 201

- 1 Q Okay. Now, I'm going to take that apart, let's see.
2 If the records indicated that you had a
3 meeting with the officers on December 14th and read
4 them that letter, would you have any reason to
5 question that date?
- 6 MR. SWANSON: Did you say officers or executive
7 staff?
- 8 MS. CAULEY: I said officers and I meant
9 executive staff.
- 10 MR. SWANSON: Okay. Ah, I wasn't sure.
- 11 MS. CAULEY: Thank you.
- 12 WITNESS: I don't remember the date.
- 13 BY MS. CAULEY:
- 14 Q Okay.
- 15 A I'm going to say I don't remember. During the time,
16 I was having a lot of headaches and migraines and
17 taking medication for migraines.
- 18 Q I don't know if I brought those minutes with me,
19 they're somewhere.
- 20 Well, the records will reflect that. I
21 believe that on file it's December 14th.
- 22 A Okay.
- 23 Q So assuming that that's right and we'll check the
24 record to make sure and if it's wrong, all these
25 questions --

Page 202

1 A And my December 8th day may be off a little bit,
 2 too. It may be the date of the letter, I'm not
 3 sure.
 4 Q Okay. The date of the letter is December 8th, for
 5 your information.
 6 A Okay, all right.
 7 Q I think we can agree on that. You believe you saw
 8 it on December 8th as well?
 9 A I don't know if it was December --
 10 Q Let me see if this --
 11 A MBA came down, that was December 5th.
 12 Q Who came down?
 13 A It was one of our partners --
 14 Q Oh, MBA, okay.
 15 A -- came down. MBA came down, that was December 5th.
 16 December 6th was my birthday.
 17 Q This might help you, what I'm about to show you,
 18 okay?
 19 A Okay.
 20 (Document Marked for Identification as
 21 Defendant's Exhibit No. 27)
 22 MR. SWANSON: Counsel, this has got a big black
 23 square in it like something has been redacted from
 24 it.
 25 MS. CAULEY: Yeah, it has because this was to

Page 203

1 Andy Broder. I mean, it was something from Andy
 2 Broder and it had to do with, actually had to do
 3 with the Cordell case but it was attorney/client
 4 privilege, that's why it's redacted.
 5 WITNESS: Oh, I seen it on the 9th then.
 6 I had a chance to reach --
 7 BY MS. CAULEY:
 8 Q There's nothing harmful for you to see but it was
 9 still attorney/client and we were doing our best to
 10 protect that.
 11 A Yep, I wrote this.
 12 Q So you wrote this to Andy Broder?
 13 A I sure did.
 14 Q And you're telling him that you saw the letter today
 15 and that's Wednesday, December 9th, is that right?
 16 A So it's the 9th instead of the 8th.
 17 Q Okay, okay. So now we know that you saw the letter
 18 on the 9th and we're going to assume for purposes of
 19 these questions that you met with your executive
 20 staff on the 14th.
 21 A Okay.
 22 Q Because I think that's what the records are going to
 23 show.
 24 A Okay.
 25 Q So based on that assumption, assuming that we're

Page 204

1 right, from the 9th to -- well, let's make it from
 2 the 8th.
 3 From the 8th to the 14th, tell me every rumor
 4 you heard about anything that was said about you in
 5 the Broder letter.
 6 A That I had messed up the company, the State of
 7 Michigan was coming over to take over Co-Op Optical
 8 because of my excessive spending, I had spent over
 9 six million dollars on credit cards, I abused my
 10 credit cards, that the Board is coming in to make a
 11 decision to make Charles president of the company, I
 12 was, I think, a liar, I had -- oh, wow, and rumors
 13 are still going around.
 14 Let's see. That's basically what I kept
 15 hearing is that I was taking money out of the
 16 company.
 17 Q Okay.
 18 A And I had, and I was -- I even heard one that I was
 19 supposed to flee the country or something because I
 20 had taken so much money from the company.
 21 And the six million dollars was the one
 22 that was the general comment in the retail offices
 23 and the administrative offices that were coming from
 24 me back of the offices and also some of the retail
 25 employees.

Page 205

1 Q Okay. Now, between the 8th of December --
 2 A Uh-huh.
 3 Q -- and the 14th of December, those six days, give me
 4 the names of every person who shared with you any of
 5 these rumors that you've just enunciated. Between
 6 those dates.
 7 A All I can say, some of the people, I do not know
 8 them by name. I do not know every single employee's
 9 name. They may see me in the hallway, they may see
 10 me at an office so I don't know.
 11 I know the -- and then there are employees
 12 that have left that were saying --
 13 But Annette Smith --
 14 Q These are people who reported to you --
 15 A No.
 16 Q -- these things?
 17 A Oh, these are people that mentioned --
 18 Q Yeah, who, I'm sorry, who told you.
 19 A -- things, mentioned things to me. Right.
 20 Q That's what I meant to say.
 21 A What is her name, she had a mole on her face, oh,
 22 Gloria Davis.
 23 Q Is that the person with the mole?
 24 A No.
 25 Q No.

Page 206

- 1 A I can't think of the lady's name with the mole.
 2 Q Okay.
 3 A Oh, she has a French name. Muzette.
 4 Q Okay.
 5 A Bernard Davis, Courtney Hooper. That was such a
 6 long time ago. I know there was a couple of people
 7 in accounting but I don't remember their names and
 8 who -- things were just going so, spinning in my
 9 head so much I couldn't remember.
 10 I can't remember but I remember they were
 11 probably union employees and at that particular
 12 time, Armida and I discussed it.
 13 Q Did you tell Armida what was in the letter?
 14 A Yeah, I think so. Yes, I believe so, yes.
 15 Q Did you tell her like pretty much after, right after
 16 you read it?
 17 A Yes. She was one I trusted at that time.
 18 Q Didn't you trust Matt at that time, too?
 19 A I trust Matt, I still trust Matt.
 20 Q Would you have given him the letter right about then
 21 then for the same reason?
 22 A Yes, unless he was in the room with the Board.
 23 Yeah, that's why I told you I didn't
 24 remember.
 25 Q Yeah. In fact, didn't you -- you talked to him

Page 207

- 1 about the contents of the letter didn't you? You
 2 didn't just give it to him? Do you remember talking
 3 to him about it?
 4 A I might have.
 5 Q Okay.
 6 A Let's see.
 7 Q Armida Smith, Muzette.
 8 A No, Armida Parisi.
 9 Q No, I'm sorry, Annette Smith.
 10 A Uh-huh.
 11 Q Muzette, Gloria Davis, Bernard Davis, Courtney
 12 Hooper, people in accounting can't remember their
 13 names but they might be union and Armida and Matt.
 14 A And there was some others, I just don't remember
 15 their names, you know, just looking at them.
 16 Q All right. Maybe as we talk because I'm going to
 17 ask you more questions about these.
 18 A Okay. If they --
 19 Q If you think -- they might come to you.
 20 A If they pop up, I'll make sure I write them.
 21 Q Okay. Now who is Annette Smith, what is her
 22 position?
 23 A Annette is an optician.
 24 Q What did she say to you exactly, the precise words?
 25 A Well, wowwee. I don't remember the precise words.

Page 208

- 1 We were walking in the hall and she was
 2 going to the lab or coming or going to HR, I'm not
 3 sure. She might have been laid off at the time.
 4 Maybe something like, I heard what's
 5 happening. Something like that. Are we and
 6 people -- since the State found out, the State knows
 7 about these things, everybody was concerned about
 8 the State, the State knows about these things,
 9 what's going to happen to Co-Op.
 10 And I just told them I couldn't answer
 11 those questions.
 12 Q What did she tell you about what was in the letter
 13 about you?
 14 A I don't remember.
 15 Q You've dropped an earring there.
 16 A Thank you.
 17 Q You found it? Okay.
 18 A Uh-huh. Thank you.
 19 Q Well, let me ask you this. Who at Co-Op do you
 20 charge with defamation? Who defamed you?
 21 A Charles, Ted, Nicole Nault, Blair McGowan for
 22 stealing. I'll say defamation of character would be
 23 those people and I was guilty until proven innocent
 24 from the Board of Directors, most of the Board of
 25 Directors.

Page 209

- 1 Q But you charge Charles, Ted, Nicole and Blair with
 2 defaming you, is that accurate?
 3 A No, and also Benny, Bernie Adams.
 4 Q Okay.
 5 A Marc, Marc Stepp probably. I'm going to say that
 6 because they thought that I was guilty until -- they
 7 thought I had actually done those things until the
 8 investigation was completed. That's, that was what
 9 was, to me, that's how I felt.
 10 Q Oh, they didn't tell you that, you just felt that
 11 way?
 12 A No, they -- I felt that way.
 13 Q Okay. Charles, Ted, Nicole, Blair, Bernice and
 14 Marc?
 15 A Uh-huh.
 16 Q Anyone else?
 17 A Not that I can think of right now.
 18 Q Okay. Other than providing Andy Broder and the
 19 board members --
 20 A And also I'm going to say over the defamation, I
 21 don't know who believed it because we got a letter
 22 saying that that was sent to the Board, excuse me,
 23 that was sent to the Board saying that I should be
 24 let go, that was given to all, an anonymous letter
 25 sent to the Board of Directors that says that I

<p style="text-align: center;">Page 210</p> <p>1 should be let go for what I'm doing.</p> <p>2 So I'm going to say it could be up to a</p> <p>3 hundred and -- a hundred employees that would have</p> <p>4 known because the employees talk.</p> <p>5 So addressed to me, I don't know but the</p> <p>6 word was out there.</p> <p>7 Q Well, that's what I have to get to. Who put the</p> <p>8 word out?</p> <p>9 A I don't know. Now your guess is as good as mine.</p> <p>10 Q Okay. What is the word that was put out?</p> <p>11 A That I was taking money from the company.</p> <p>12 Q Okay.</p> <p>13 A Bob Jenuzzi was one that said, until Jackee started</p> <p>14 stealing from the company. I think that came --</p> <p>15 that was thirdhand information.</p> <p>16 Q Do you know if Charles Benson said anything about</p> <p>17 you to anyone other than OFIR, the Board and the</p> <p>18 attorney?</p> <p>19 A I don't follow him around, no. He probably said it</p> <p>20 to Nicole Nault.</p> <p>21 Q Okay. Do you know of anyone, do you know if whether</p> <p>22 Mr. Winiarski said anything to anyone about you</p> <p>23 other than the Board, maybe OFIR, we don't know</p> <p>24 and --</p> <p>25 A Ted tells everything.</p>	<p style="text-align: center;">Page 212</p> <p>1 of the company?</p> <p>2 A No.</p> <p>3 Q Do you know or do you have any facts to support a</p> <p>4 conclusion that Blair McGowan told anyone about any</p> <p>5 of the allegations raised in the letter about you</p> <p>6 prior to, outside of the Board of Directors and</p> <p>7 talking with them and the attorney, if he said</p> <p>8 anything to anyone outside of that group prior to</p> <p>9 December 14, 2009?</p> <p>10 A If I remember correctly, I remember him saying that</p> <p>11 he consulted with his brother that's an attorney.</p> <p>12 Q Okay. Did he tell you when he consulted with his</p> <p>13 brother an attorney?</p> <p>14 A No, Blair is not like that.</p> <p>15 Q Okay. Other than that, any other facts to support a</p> <p>16 conclusion that he told anyone --</p> <p>17 A No.</p> <p>18 Q -- about the allegations in the letter that Andy</p> <p>19 Broder presented the Board?</p> <p>20 A No.</p> <p>21 Q Okay. Do you know of any facts to support a</p> <p>22 conclusion that Bernice -- well, let's do it quicker</p> <p>23 -- that anyone on the Board told anyone outside of</p> <p>24 the Board of Directors and their attorney what was</p> <p>25 in that letter and the allegations against you prior</p>
<p style="text-align: center;">Page 211</p> <p>1 Q Excuse me. -- and the attorney Andy Broder?</p> <p>2 A Ted tells everything. I, he's not --</p> <p>3 Q Do you know for a fact that he revealed anything</p> <p>4 that was in that letter prior to the 14th of</p> <p>5 December 2009?</p> <p>6 A Oh, Melvin Taylor. Yes.</p> <p>7 Q Could you answer the question about Ted, please?</p> <p>8 You're going back and answering questions that I</p> <p>9 haven't, that I asked before.</p> <p>10 A Well, the name came up to me, I'm sorry.</p> <p>11 MR. SWANSON: You told her to come up with</p> <p>12 names --</p> <p>13 WITNESS: As we talk.</p> <p>14 MR. SWANSON: -- whenever she thought of them.</p> <p>15 BY MS. CAULEY:</p> <p>16 Q Can you answer the question I was asking you,</p> <p>17 please?</p> <p>18 A Okay.</p> <p>19 Q And that was, do you know for a fact that Ted</p> <p>20 Winiarski told anyone what was in that letter, any</p> <p>21 accusations about you stealing from the company</p> <p>22 prior to December 14, 2009?</p> <p>23 A I don't know.</p> <p>24 Q Do you know for a fact or any facts to support a</p> <p>25 belief that Nicole -- well, was Nicole an executive</p>	<p style="text-align: center;">Page 213</p> <p>1 to December 14, 2009?</p> <p>2 A I'm going to say, no, I don't know.</p> <p>3 Q Okay. Did any one of the people who came to you</p> <p>4 whether named or not named, whether you can't think</p> <p>5 of their name yet or not, did any of those people</p> <p>6 from whom you heard rumors, tell you the source of</p> <p>7 the rumor from where they got this information?</p> <p>8 A The letter.</p> <p>9 Q Who told you that the letter is where they got the</p> <p>10 information?</p> <p>11 A Employees have the -- everybody almost have a copy</p> <p>12 of the letter. So of the, of the Benson case thing,</p> <p>13 there's a lot of people that the letter, a lot of</p> <p>14 people have that letter.</p> <p>15 Q What, the Benson, the -- what?</p> <p>16 A The allegations against me.</p> <p>17 Q In the Benson case?</p> <p>18 A Yes, a lot of people have that.</p> <p>19 Q Have the complaint? A copy of the complaint you</p> <p>20 mean?</p> <p>21 A Not the legal complaint but the complaint from Andy</p> <p>22 Broder.</p> <p>23 Q You're talking about the Broder letter?</p> <p>24 A Yes.</p> <p>25 Q And it's your allegation that everybody has a copy</p>

Page 214

1 of the Broder letter?

2 A There are several, not everybody, I'm --

3 Q Okay.

4 A Let me rephrase that.

5 Q Okay.

6 A Several people have that.

7 Q Okay. Did they tell you from where they got it?

8 A No. I just assumed it was from the fax machine.

9 Q Well, you didn't assume it was in the fax machine,

10 you found it in the fax machine, right?

11 A Well, everybody had left, yes, the office except for

12 me.

13 Q You don't know if it was faxed to anyone?

14 A Oh, yes, you could tell it was faxed to someone

15 because it was still in the tray.

16 Q Okay. To whom was it faxed?

17 A It didn't say.

18 Q You couldn't read back in the machine to see?

19 A I don't know how to use it, no.

20 Q Okay. So you don't -- all right, I'm trying to get

21 to the source of these rumors.

22 Where do, you know, I know you probably

23 have an idea where you think it came from but how

24 did people get the letter? Did anyone ever tell you

25 how they got the letter, the Broder letter?

Page 215

1 A No.

2 Q And you don't know the -- you say you also received

3 another copy by an anonymous source?

4 A Yes.

5 Q And you have no idea who that was from?

6 A I just know it was from 48211 zip code, Detroit. I

7 think it was a 48211 zip code in Detroit.

8 Q Okay.

9 A But it was not -- that's the only thing I know.

10 Q Okay. Do you have any facts to --

11 A 48211, yeah.

12 Q Do you have any facts to support a conclusion that

13 any board member released, gave the letter to

14 everybody or anybody?

15 A Oh, I forgot about this.

16 Q Okay.

17 A I was, after one meeting I was cleaning up the board

18 room and one of the letters were left, one of the

19 letters was left on the board table. I found out it

20 was Ray Murphy's copy and I returned it to him the

21 next time I saw him.

22 Q Okay. So no one else got it, you found it and gave

23 it back to him?

24 A Well, that was, the meeting was earlier that

25 morning, it had been on the board table for a long

Page 216

1 time.

2 Q Okay. Do you know of anyone that saw it?

3 A I know people went into the board room to get water.

4 Q Do you know of anyone who saw the letter?

5 A No, I didn't watch them.

6 Q Okay. Any other facts to support a conclusion that

7 anyone at Co-Op spread this letter around?

8 A Oh, I think Temeng saw it.

9 Q Okay. Who did he see it from?

10 A I don't know.

11 Q Okay. Did you ever talk about the contents of the

12 letter or the allegations against you with any other

13 group?

14 A No. No.

15 Q Never?

16 A No, it was embarrassing.

17 Q Yeah, okay.

18 A And hurt, it hurt. It did, it was embarrassing, it

19 hurted, it humiliated me, it took, it took so much

20 out of me to read things like that and for somebody

21 to think that way about me. It hurted to know that

22 people that I trust and I loved in that

23 organization --

24 Q Uh-huh.

25 A Ted, Charles, Ben, Dr. Lang, Nicole and people that

Page 217

1 I would do anything in the world for, to sit down

2 and concoct something of that nature, to try to get

3 rid of me.

4 Q Well, you did, in fact, violate the company policy

5 regarding credit card usage, right?

6 A Yes, I did.

7 Q Okay.

8 A Along with everybody else.

9 Q You're the --

10 A I know you don't want me to say anything --

11 Q Well, you're the boss, right? So if the boss does

12 it, it's okay for everybody to do it?

13 A No. In 2007 I had forgot about that policy, ma'am.

14 It was brought to my attention back in -- I forgot

15 about the policy. The policy was never enforced. I

16 put it in force in 2007.

17 Q Okay.

18 A And that was because of one person that used the

19 credit card that was involved with Charles where

20 they had rented a room at the Palace for a concert

21 and one person did not have enough money to pay for

22 it and there was going to be some, there was some

23 problems going on with Charles and this other name,

24 other girl named Nicole Weldon.

25 So therefore, I said no one uses a credit

Page 218

1 card for personal, for personal reasons.

2 So many things go through it and at times
3 I had a credit card that looked just like the one
4 that I had at the company. Sometimes I used it
5 purposely, sometimes I used it by mistake. But
6 whatever I did, I tried to make sure I paid
7 everything back.

8 I told anybody in several meetings
9 including the CFO if they knew about the policy that
10 if they used the credit card to make sure that when
11 you turn in your credit card statement, a check is
12 attached.

13 Sometimes they paid with their own credit
14 cards to pay for it.

15 So if I violated that policy, I did it
16 ignorantly and I did not realize that it was in
17 force. I did not do it purposely.

18 So I didn't go around trying to break
19 every rule in the office.

20 Q In fact, doesn't the policy say that as part of the
21 policy it was your responsibility to review those
22 credit card statements every month?

23 A I delegated that to Armida Parisi.

24 Q So you did not follow through to make sure that was
25 being done properly?

Page 219

1 A I can't do every single thing in the office. My job
2 was also to delegate things.

3 There were several different credit cards
4 that are out. Technically, if someone was looking
5 at them closely and we would find them, it was
6 supposed to be for the CFO but he would miss some of
7 them.

8 So basically I had Armida look through it
9 so she could go through details and check and do
10 things like that, tell people how much they owed and
11 brought a check and make sure that it was turned
12 back in to the company so the company wouldn't lose
13 any money.

14 Q Did you always pay with that statement, any amounts
15 that were due from your personal use, every time
16 right with the statement?

17 A Yes, unless, unless I forgot or unless I was doing
18 something or busy on some other project.

19 I know during the ENR merger, there was a
20 lot of things going, sometimes my statement piled up
21 for a couple of months.

22 Q Isn't it true that on several occasions it was a
23 matter of weeks and/or months before you paid back
24 money that you had charged on the company credit
25 card?

Page 220

1 A I don't remember and I don't know. Sometimes it
2 was, sometimes it wasn't.

3 I gave it to Armida and wrote out the
4 check and gave it to her.

5 I know that there was one time that I had
6 not had a chance to get to the bank where I didn't
7 put it in there.

8 But I also had to put the receipts with
9 the credit cards, then write the checks. So
10 sometimes it took me time to get the receipts
11 together.

12 I'm not saying I was the most organized
13 person in that area. But trying to get the receipts
14 together, put them together and then write the
15 check.

16 Q In fact, didn't someone from OFIR tell you that that
17 practice was, in fact, stealing from the company
18 because you were taking an unauthorized, an
19 unauthorized interest --

20 A No one from OFIR --

21 Q -- interest-less loan, I mean and interest-free
22 loan?

23 A No. No, no one from OFIR told me that. Who told me
24 that from OFIR?

25 Q They told you in open meeting with many other people

Page 221

1 there, didn't they, in fact, that that was, that was
2 stealing money from the company is a practice that
3 should never be allowed?

4 A No, it was not an open meeting. I would like to see
5 that in those minutes.

6 Q Okay. Then do you think that that's not stealing
7 from the company? By using a personal credit card
8 to charge it on the company card, do you believe
9 that that is not, in fact, stealing from the company
10 by taking an unauthorized loan?

11 A I don't believe it was stealing. Sometimes we were
12 on business trips.

13 Q I asked for personal use, ma'am.

14 A That's what I'm saying.

15 Q Personal use.

16 A Personal use on business trips.

17 Q So you were taking a personal loan from the company
18 by using their credit card and it wasn't authorized,
19 correct? Whenever you charge something personally
20 on the card, that's like a personal loan.

21 A So you're saying everyone except for three people
22 within the company were all in error?

23 Q Ma'am, I'm talking about the CEO, the person who
24 wrote the policy and who was --

25 A You're trying to put it on me.

<p style="text-align: center;">Page 222</p> <p>1 Q -- and who was in charge of that.</p> <p>2 I want to know if you set the standard for</p> <p>3 taking unauthorized loans from the company on a</p> <p>4 regular basis by using the credit card for personal</p> <p>5 use?</p> <p>6 A I used the credit card for personal use.</p> <p>7 Q Do you have any facts, do you have any information</p> <p>8 as to who put the Broder letter on the fax machine?</p> <p>9 A No.</p> <p>10 Q You have no idea, okay.</p> <p>11 Do you know how the Broder letter was</p> <p>12 presented to the Board of Directors?</p> <p>13 A No.</p> <p>14 Q You allege in paragraph fourteen of your complaint</p> <p>15 that upon information and belief, Co-Op caused</p> <p>16 allegations of theft to be published to third</p> <p>17 persons.</p> <p>18 I need to know all the facts that you have</p> <p>19 to support that allegation in paragraph fourteen.</p> <p>20 A First of all, the letter was sent to the Board of</p> <p>21 Directors, therefore, should never have left that</p> <p>22 room or no one should ever have found out about it</p> <p>23 except for the board members.</p> <p>24 Q May I have an answer to my question, please?</p> <p>25 A That was the answer.</p>	<p style="text-align: center;">Page 224</p> <p>1 A No.</p> <p>2 Q Do you know whoever started that rumor that you</p> <p>3 stole six million?</p> <p>4 A That's exactly what it is, a rumor, no.</p> <p>5 Q Okay. So who started it?</p> <p>6 A I don't know. If I know I would address that and</p> <p>7 tell you.</p> <p>8 Q Okay. So was there anything in the letter that said</p> <p>9 that Benson is going to be president?</p> <p>10 A No, that was a rumor and Ted said that. He says</p> <p>11 Charles want to be president, I don't.</p> <p>12 Q Okay. You knew Charles wanted to be president, he</p> <p>13 had told you that, right?</p> <p>14 A He told me that during the interview.</p> <p>15 Q And he's told you that since then?</p> <p>16 A No.</p> <p>17 Q You knew that, you knew he was out to get you?</p> <p>18 A I did?</p> <p>19 Q Didn't you?</p> <p>20 A No.</p> <p>21 Q No? Never told anybody that?</p> <p>22 A No.</p> <p>23 Q Okay. But that wasn't in the letter?</p> <p>24 A No.</p> <p>25 Q Okay. So that didn't come from the letter.</p>
<p style="text-align: center;">Page 223</p> <p>1 Q Oh, I'm sorry. Oh, okay. I didn't recognize it as</p> <p>2 that.</p> <p>3 So just because somehow it got out, it was</p> <p>4 the Board's fault?</p> <p>5 A Yes, because it was in their, it was in their, it</p> <p>6 was in their hands. It was only supposed to be</p> <p>7 distributed to the Board. It even told them, Jackee</p> <p>8 Smith shouldn't even see this.</p> <p>9 Q Okay. Well, you showed it to people, right?</p> <p>10 A Armida, yeah. It's about me.</p> <p>11 Q Matt?</p> <p>12 A Matt would have known anyway.</p> <p>13 Q And you read it to the executive staff?</p> <p>14 A Right. That was after it's been all over the</p> <p>15 office.</p> <p>16 Q In those six days with --</p> <p>17 A Didn't take long.</p> <p>18 Q Okay. Tell me, again, how do you know that those</p> <p>19 people who were talking about Benson is going to be</p> <p>20 president, I stole six million dollars from the</p> <p>21 company -- first of all, is there anything in the</p> <p>22 Broder letter that accused you of stealing six</p> <p>23 million dollars from the company?</p> <p>24 A Uh-uh, no.</p> <p>25 Q Okay. So that didn't come from the letter?</p>	<p style="text-align: center;">Page 225</p> <p>1 Is all the defamation that you're charging</p> <p>2 based on what was in that letter?</p> <p>3 A No.</p> <p>4 Q Well, what else is there? What was, I mean, your</p> <p>5 complaint says it's based on the letter.</p> <p>6 A That's the letter but defamation is not only</p> <p>7 defamation, it was, it's going, it's on the</p> <p>8 Internet, it's on the newspaper --</p> <p>9 Q Okay, I'm sorry, I'm going and I am, I acknowledge</p> <p>10 I'm interrupting here. I'm just talking about the</p> <p>11 statements in the letter, not where they've maybe</p> <p>12 been republished.</p> <p>13 Is there anything other, like, for</p> <p>14 example, are you --</p> <p>15 A I thought --</p> <p>16 Q Are you suing -- this might clear it up.</p> <p>17 A Okay.</p> <p>18 Q Are you suing Co-Op because someone said I heard you</p> <p>19 stole six million dollars?</p> <p>20 A No, I'm suing Co-Op because they said that I was,</p> <p>21 I'm a thief.</p> <p>22 Q Because of the letter, because of the statements in</p> <p>23 the Broder letter, is that right?</p> <p>24 A Yes.</p> <p>25 Q So if it was over the Broder letter, you're not</p>

Page 226

1 blaming Co-Op for anything that's just out there
 2 floating if it wasn't in the letter, is that fair to
 3 say?
 4 **A The Board is Co-Op.**
 5 **Q** But you're only blaming the Board for what was in
 6 the letter, is that right? You're not blaming them
 7 for people saying Jackee stole six million dollars
 8 because it wasn't in the letter?
 9 **A They had, they knew about the credit cards, they may**
 10 **not have known the amount. So to me, if I may or do**
 11 **you want me to?**
 12 **Q** Go ahead, go ahead, go ahead.
 13 **A To me, that tells you that leaks -- if you started**
 14 **at one person and go down to fifty, the information**
 15 **is going to be wrong by the time you get to the**
 16 **fiftieth person.**
 17 **Q** Okay.
 18 **A So it's, it was, what I'm, I understand that it was**
 19 **blown out of proportion, I know it's not six**
 20 **thousand dollars so that's, to me is irrelevant.**
 21 **Q** Oh, is it six thousand? You said six million.
 22 **A Six million. Million, I'm sorry.**
 23 **Q** Okay.
 24 **A It's kind of like when I make, you make mistakes.**
 25 **Q** Okay.

Page 227

1 **A So what I'm saying is defamation of character to me**
 2 **is that now, that has hindered me from employment.**
 3 **Q** Well, we're going to get to that but --
 4 **A Well --**
 5 **Q** Go ahead.
 6 **A -- you asked me the question.**
 7 **Q** Go ahead, go ahead.
 8 **A Hindered me from employment. The optical industry**
 9 **is a close circle, people outside now, outside of**
 10 **the optical industry are very well aware of what has**
 11 **taken place, they know different things.**
 12 **So defamation of character to me means a**
 13 **lot of things that has, has, has said things about**
 14 **me that are not necessarily true or totally**
 15 **accurate.**
 16 **Q** The thing is, in order to find Co-Op responsible, I
 17 have to know who at Co-Op did these things.
 18 And you've given me your list of people,
 19 that you think Charles did, Nicole, Blair, Bernice,
 20 Marc and then what they said and two whom.
 21 Because, see, you've told people about
 22 this so how do we know that those people aren't
 23 ruining your reputation?
 24 I need to know what you believe came from
 25 Charles, Ted, Nicole, Blair, Bernice and Marc. What

Page 228

1 they said and to whom they said it and when they
 2 said it.
 3 Can you provide me with that information?
 4 **A If I knew, you would have it in front of you. I do**
 5 **not know. They -- I know that it didn't come from**
 6 **me and I know that Charles -- Charles, Ted and**
 7 **Nicole were all a part of it. It says that in the**
 8 **document.**
 9 **Q** Okay. Do you think Charles, Ted and Nicole defamed
 10 you --
 11 **A And Larry Gardiner, I'm sorry, he was a part of it,**
 12 **too.**
 13 **Q** Okay, well, Larry wasn't even working for Co-Op at
 14 the time, was he?
 15 **A Yeah, that's another person outside the Board that**
 16 **could have said something about that letter.**
 17 **Q** Okay. But he wasn't even working for Co-Op?
 18 **A No. I don't know. That's why -- isn't that funny?**
 19 **That is really funny because Ted, Charles and Nicole**
 20 **added Larry Gardiner to it.**
 21 **Q** Okay.
 22 **A And he's outside the Board and they're getting his**
 23 **advice.**
 24 **Q** Okay.
 25 **A I'm glad you brought up that point.**

Page 229

1 **Q** Okay. Can I get to my question?
 2 Do you believe that Charles, Ted and
 3 Nicole defamed you when they went to Andy Broder and
 4 the Board with concerns they had about you?
 5 **A Yes, because a lot, because a lot of it was, are**
 6 **lies.**
 7 **Q** So they had no right going to the Board about you?
 8 **A They could have, there's a way to, they should --**
 9 **they can go to the Board, yes.**
 10 **Q** Okay. So they --
 11 **A In a different way.**
 12 **Q** You mean, saying different things or just using a
 13 different process to get there?
 14 **A Process.**
 15 **Q** Okay. So it's not what they said to the Board that
 16 bothers you, it was the process?
 17 **A Yes, you could say that.**
 18 **Q** Okay. And who did Blair defame you in front of, who
 19 did he say bad things about you to?
 20 **A Oh, he said bad things about me all the time in**
 21 **front of meetings. There's records of minutes of**
 22 **meetings and everyone knew that Blair has wanted me**
 23 **to be off, be out of there for years.**
 24 **Q** Okay. Those are in board meetings, is that correct?
 25 **A Yes.**

Page 230

1 Q Okay. And to whom did Bernie defame you? To other
2 board members?
3 A Charles and Ted.
4 Q And Charles and Ted, okay. What did Bernie say to
5 Charles and Ted about you?
6 A It was not told to me directly, I just know that
7 they were all three in the office together
8 discussing the situation and Ted and Bernie were
9 always in the car together and talking so I don't
10 know, I have no idea.
11 Q Okay, I'm going to try it again.
12 Can you tell me what Charles, Ted, Nicole,
13 Blair, Bernice and Marc said about you to whom and
14 when?
15 A No.
16 Q Is there anyone other than those? And I know you're
17 saying Larry Gardiner. You can sue him separately,
18 he's not in this.
19 A I am.
20 Q You are? Other than Charles, Ted, Nicole, Blair,
21 Bernice and Marc, anyone else at Co-Op who you say
22 defamed you? I want to just make sure I've got it
23 all.
24 A That's it.
25 Q That's it, okay. And other than reading the letter

Page 231

1 to -- well, and other than talking to Armida, maybe
2 giving it and talking to Matt and reading the letter
3 at the executive, yeah, executive staff meeting, you
4 never talked to anyone else at Co-Op about those
5 allegations, is that correct?
6 A No, even the janitor knew about it.
7 Q Okay. But is that correct what I said?
8 A Yes.
9 Q Okay. Did you ever go on a trip where you took a
10 bodyguard?
11 A A bodyguard?
12 Q Uh-huh.
13 A No.
14 Q Never took a bodyguard? Who is Courtney Hooper?
15 A Oh, that's the -- I paid for that. Yes, I did, I
16 paid for that out of my own money.
17 Q You paid for Courtney Hooper to be your bodyguard on
18 a trip?
19 A Right, because I was getting threats.
20 Q What threats were you getting?
21 A I was getting threats when I became first president
22 and CEO. And I took him to Ohio with me, it was a
23 drive trip and I paid for it myself.
24 Q When did that happen?
25 A That was back in probably 2003, 2004.

Page 232

1 Q Who were the threats from?
2 A Whoever was on the phone and whoever threw the eggs
3 on my porch.
4 Q You never found out who threatened you?
5 A They usually don't give you their name, no.
6 Q Was it ever investigated by the police?
7 A No.
8 Q Didn't you at one time fly to St. Louis with
9 Courtney Hooper as your bodyguard as well, for which
10 Co-Op paid for him to go with you?
11 A I don't remember that.
12 Q Was Courtney Hooper an employee of Co-Op in 2003?
13 A I don't think so.
14 Q So he wasn't an employee when you took him as a
15 bodyguard to Ohio or he was by then?
16 A Was it -- what year was that?
17 Q Well, you said it was 2003 so I'm going by you.
18 Whenever it was, whenever you took the trip to --
19 A 2004 because the end of 2003.
20 Q Okay.
21 A Could be 2004.
22 Q So in 2004 was Courtney Hooper an employee of Co-Op
23 when he went with you to Ohio?
24 A That's what I'm trying to think.
25 Q Okay.

Page 233

1 A I'm trying to think, I need time to think. I'm
2 trying to think when Courtney was hired.
3 I took him to, I took him to Miami, Miami
4 Beach but I paid for that, that was a gift.
5 And it had to be the times that I was
6 being threatened. If I paid for it, it was to, it
7 was to watch me. And my husband was unable to go
8 with me to watch me.
9 Q Okay. Why did you take him to Miami Beach?
10 A Because he was a good person and he would stay in
11 the office with me because I was at the office at
12 2:00 and 3:00 in the morning working, so he would go
13 in the room. He wasn't being paid so I, as for
14 Christmas I gave him and his wife a trip to Miami
15 Beach, Florida.
16 Q Did you go with him?
17 A My husband and I both went with him.
18 Q Okay.
19 A It came out of my pocket.
20 Q Okay. And Ohio was, again, have you figured out
21 whether he was working at Co-Op when you took him to
22 Ohio?
23 A I don't -- if you're saying 2003, 2004 --
24 Q No, you're saying it. It's up to you.
25 A Okay. I don't think he was an employee in 2003 or

Page 234

1 2004 but he was, he went with me because I, because
2 of the Pat Korth case and I was being threatened.

3 People were calling and hanging up on me
4 and I don't know whether it was Pat or whether it
5 was Deborah Matthews or who but I had and I might
6 still have notes. I had notes threatening me,
7 people were sending like, I had, well, not some but
8 one, I received another, a letter at my house. I
9 would receive emails and I couldn't trace the emails
10 back.

11 So I was being threatened at that time and
12 my husband did not want me to go alone so he sent
13 Courtney because he trusted Courtney.

14 Q My question was, was he an employee of Co-Op at the
15 time and that's all I cared for an answer on. I
16 just -- was he?

17 A I don't know.

18 Q And how did you know him then?

19 A He worked, he worked for the janitorial service from
20 an outside source.

21 Q Okay. When you say you paid for him, did you pay
22 him an hourly rate to be there or just paid for the
23 trip?

24 A I gave him a hundred dollars and paid for his
25 accommodations.

Page 235

1 Q And how long were you there?

2 A Just that day, we were opening offices or something.

3 Q And you don't recall going to St. Louis with him?

4 A I don't know but if it's, if it's on the record it
5 has to be true.

6 Q As of December 8th had you informed the Board of
7 Directors of the December 1st meeting with OFIR?

8 A As of?

9 Q December 8, 2009, had you informed the Board of
10 Directors about the meeting on December 1, 2009 with
11 OFIR?

12 A No, I was going to inform -- we had a scheduled
13 meeting so they were going to be informed and I
14 think it was the 14th if I'm not mistaken, December
15 14th. I'm not sure.

16 Q Okay. Was the CFO removed from oversight of payroll
17 and was your niece put in charge of payroll?

18 Just listen to my question and answer it,
19 please.

20 Did the CFO, was he removed from the
21 oversight of payroll? First of all. That's part of
22 it.

23 Had the CFO done payroll and then was he
24 removed from doing that?

25 A Yes.

Page 236

1 Q Okay. Was your niece put in charge of payroll?

2 A Yes.

3 Q Okay. Did you inform the Board of that change?

4 A I didn't make the change, Ted made the change,
5 Charles made the change.

6 Q My question was --

7 A Those things we didn't talk to the Board of
8 Directors about -- I know your first name is Mary.

9 But we didn't tell the Board every single
10 action that took place within Co-Op Optical.

11 So staff changing, I had, I was, the
12 empowerment was between the management team of Co-Op
13 Optical.

14 Q And you didn't think it might be something that the
15 Board would want to know, that one of your relatives
16 had --

17 A I didn't make the decision, I --

18 Q I didn't ask that, ma'am. Did you think that a
19 Board of Directors might want to know that one of
20 the CEO's relatives was being given more --

21 A CEO.

22 Q That's what I said, CEO.

23 A You said CFO.

24 Q The CEO's relatives was given more authority. You
25 don't think the Board, that was information that the

Page 237

1 Board should have had?

2 A That should have been told by human resources and
3 the people that did it.

4 Q When the executives would make reports to the Board,
5 did you ever review those reports before they were
6 given?

7 A Most of the time, yes.

8 Q And did you make changes to them?

9 A Sometimes, yes.

10 Q And you added things that had been left off, should
11 have been there?

12 A Sometimes I added, sometimes I deleted.

13 Q You had the opportunity, if something wasn't in a
14 report that should have been there you could have
15 added it, is that right?

16 A Right, if I had the chance to review it.

17 Q Okay. Did you amend the corporate credit business
18 card policy of Co-Op in January 2010?

19 A Amend? Amend it how?

20 Q I don't care, I just want to know if you amended it.
21 Did you change it in any way?

22 A Yes, we added one more line.

23 Q What was the line that you added?

24 A I don't remember.

25 Q Well, let's see if we can figure it out.

Jacqueline Smith

Smith vs Co-Op Optical

December 15, 2010

<p style="text-align: center;">Page 238</p> <p>1 (Document Marked for Identification as</p> <p>2 Defendant's Exhibit No. 28)</p> <p>3 BY MS. CAULEY:</p> <p>4 Q Does this two-page exhibit show first a cover memo</p> <p>5 and then a Co-Op Corporate Credit Business Card</p> <p>6 Policy dated January 2010?</p> <p>7 A Yes.</p> <p>8 Q Okay. Is this the policy that was issued in January</p> <p>9 2010?</p> <p>10 A Yes.</p> <p>11 Q And it was an amendment from some other policy?</p> <p>12 A Yes.</p> <p>13 Q Okay. What was, can you tell by looking at this</p> <p>14 what the added --</p> <p>15 A Authorized corporate purchases.</p> <p>16 Q Could you let me finish my question, please?</p> <p>17 A Oh, I'm sorry, I thought you were.</p> <p>18 Q -- what the added line was?</p> <p>19 And you said, authorized corporate</p> <p>20 purchases, right?</p> <p>21 A Uh-huh.</p> <p>22 Q Is that a yes?</p> <p>23 A Yes.</p> <p>24 Q Okay. And why was that line added?</p> <p>25 A Because people were purchasing things that were not</p>	<p style="text-align: center;">Page 240</p> <p>1 of them were, I didn't copy the ones with the things</p> <p>2 and I'm just not sure. But you have it now, so in</p> <p>3 any event --</p> <p>4 (Document Marked for Identification as</p> <p>5 Defendant's Exhibit No. 29)</p> <p>6 MR. SWANSON: Well, I'm going to pose an</p> <p>7 objection to Exhibit 28, I'll pose the same</p> <p>8 objection to 29 in terms of there's no indication as</p> <p>9 to when or whether this was produced and I'm not</p> <p>10 sure that it was.</p> <p>11 MS. CAULEY: 29 was produced I'm sure of that,</p> <p>12 you can look in the documents and find it. I'm not</p> <p>13 positive about 28.</p> <p>14 BY MS. CAULEY:</p> <p>15 Q So will you take a look at No. 28 and tell me what</p> <p>16 that is? I mean, Exhibit 29, I'm sorry, Exhibit 29.</p> <p>17 A This is the corporate credit card policy and it was</p> <p>18 revised 1-30-07.</p> <p>19 Q Okay. And was that sent out at your direction?</p> <p>20 A Yes.</p> <p>21 Q Okay. And was this the policy from which a revision</p> <p>22 was made in January?</p> <p>23 A Yes.</p> <p>24 Q Okay. Can you show me between Exhibit 28 and 29</p> <p>25 what was changed?</p>
<p style="text-align: center;">Page 239</p> <p>1 authorized and we, after we did our own</p> <p>2 investigation we found out that there was a lot of</p> <p>3 expenses that were not, that needed to have</p> <p>4 corporate authorization such as computers, other</p> <p>5 type of major purchases. Trips, licensings, things</p> <p>6 of that nature.</p> <p>7 Q Okay. And was that line added at your direction?</p> <p>8 A I think we came together as a group to add that.</p> <p>9 Q You were part of those discussions?</p> <p>10 A Yes, I was.</p> <p>11 Q And these discussions occurred in January 2010?</p> <p>12 A Yes.</p> <p>13 Q Okay.</p> <p>14 MR. SWANSON: Counsel, was this document</p> <p>15 produced by you in the course of documentation? I</p> <p>16 see no Bates stamp number and I don't know that I've</p> <p>17 seen --</p> <p>18 MS. CAULEY: And you're right and you're going</p> <p>19 to see the same thing on the other, the next two if</p> <p>20 I use them both, I don't know.</p> <p>21 I believe they were produced. I went to</p> <p>22 look through yours and ours and I found a whole</p> <p>23 bunch of credit card policies and I don't know if it</p> <p>24 was in there or not, quite honestly.</p> <p>25 So that's all I can tell you. I know some</p>	<p style="text-align: center;">Page 241</p> <p>1 A I don't see a change.</p> <p>2 Q Okay. So contrary to your earlier testimony, there</p> <p>3 were no changes made to the policy in 2010, is that</p> <p>4 correct?</p> <p>5 A Yeah. I thought the highlighted one was, the</p> <p>6 highlight was a change but not.</p> <p>7 Q Okay. Did you ever tell anyone at Co-Op that the</p> <p>8 policy in January was revised, it was a newly-</p> <p>9 revised policy?</p> <p>10 A We reissued. Yeah, probably, on this here it says</p> <p>11 it, revised.</p> <p>12 Q Where does it say that?</p> <p>13 A It says it on the page, revised version, excuse me,</p> <p>14 on Exhibit 28.</p> <p>15 Maybe it wasn't revised, maybe it was just</p> <p>16 reissued.</p> <p>17 Q It doesn't say reissue, does it?</p> <p>18 A No. Some things we don't -- just were left off, to</p> <p>19 be left off.</p> <p>20 Q Could you answer my original question which was did</p> <p>21 you ever tell anyone at Co-Op that you were issuing</p> <p>22 a revised policy in January 2010 for the credit card</p> <p>23 policy?</p> <p>24 A I don't remember.</p> <p>25 Q Did you receive more than one payroll advance from</p>

61 (Pages 238 to 241)

<p style="text-align: center;">Page 242</p> <p>1 Co-Op?</p> <p>2 A Yes.</p> <p>3 Q Did any of the payroll advances that you received</p> <p>4 cause any problems for Co-Op at any time?</p> <p>5 A I don't know, it was never reported to me by the</p> <p>6 CFO.</p> <p>7 Q You never learned that it put the company into a</p> <p>8 whole different bracket that caused all kinds of tax</p> <p>9 problems one year? You were never told that?</p> <p>10 A Vaguely I remember something like that, I'm not sure</p> <p>11 but that was after the fact.</p> <p>12 Q Okay. Did you ever use your -- oh, I'm sorry, I</p> <p>13 already asked you that.</p> <p>14 How many of your relatives worked at Co-Op</p> <p>15 in 2009? And would you list them so you might as</p> <p>16 well say them.</p> <p>17 A Sharmien Scott -- Sharmien like Charmin toilet paper</p> <p>18 except for with an S.</p> <p>19 Sherold Riddles, Edward Scott and Carise</p> <p>20 Torrence.</p> <p>21 Q Any other relatives that worked there prior to 2009</p> <p>22 that had been let go?</p> <p>23 A Yes. Cullen Torrence. Cullen, C-U-L-L-E-N</p> <p>24 Torrence.</p> <p>25 Q Okay. How about any of your husband's relatives?</p>	<p style="text-align: center;">Page 244</p> <p>1 Q It wasn't the fact that you were crying because you</p> <p>2 were so upset about what had happened in the</p> <p>3 meeting?</p> <p>4 A I have no idea about my biological functions, I just</p> <p>5 know after that happened I started having a migraine</p> <p>6 headache.</p> <p>7 Q Okay. So you don't know that that particular thing</p> <p>8 caused it in light of other things that were going</p> <p>9 on?</p> <p>10 A I don't know if that was the particular thing that</p> <p>11 caused it but yet I do not know if it was the</p> <p>12 particular thing that caused it.</p> <p>13 Q Yeah, you don't know either way?</p> <p>14 A Right.</p> <p>15 Q Okay, that's fair. Did preparing the plates of food</p> <p>16 the times you did that for Mr. Stepp and Mr. Murphy,</p> <p>17 did that interfere with your ability to do your job?</p> <p>18 A I didn't like it.</p> <p>19 Q Did it prevent you from performing any duties that</p> <p>20 you needed to perform?</p> <p>21 A Yes, it did. It took --</p> <p>22 Q What?</p> <p>23 A It took time for me to get back to my office to do</p> <p>24 the work that I had to do.</p> <p>25 Q Okay. How much time did that take?</p>
<p style="text-align: center;">Page 243</p> <p>1 They ever been --</p> <p>2 A Oh, yes. Christopher Pieprzak, P-I-E-P-R-Z-A-K.</p> <p>3 Q Who is Sherold Riddles?</p> <p>4 A Niece.</p> <p>5 Q By the way, I learned of your mother's death and my</p> <p>6 condolences to you.</p> <p>7 A Thank you.</p> <p>8 Q When Mr. Murphy grabbed your rear end -- I did say</p> <p>9 that right, right, it was Murphy? Yeah. How did</p> <p>10 that, if at all, did that interfere with your</p> <p>11 ability to do your job?</p> <p>12 A It made me very uncomfortable to be around him.</p> <p>13 Q Okay. And how much longer were you around him until</p> <p>14 you leave, day or two?</p> <p>15 A Not much longer. I was happy to be away.</p> <p>16 Q Okay. Did it prevent you from doing your job, I</p> <p>17 mean, stop you? Is that what put you on leave, that</p> <p>18 he grabbed your rear end?</p> <p>19 A No.</p> <p>20 Q Okay. Did it interfere with any duty you had to</p> <p>21 perform that you couldn't or were unable to perform</p> <p>22 because of it?</p> <p>23 A Gave me a headache, a migraine.</p> <p>24 Q That one act gave you a headache?</p> <p>25 A Gave me a headache.</p>	<p style="text-align: center;">Page 245</p> <p>1 A Sometimes I had to do two, two plates so -- and put</p> <p>2 everything on it and separate them from desserts to</p> <p>3 everything so sometimes it took me, if it was two of</p> <p>4 them and no one was helping me, maybe about thirty</p> <p>5 minutes sometimes.</p> <p>6 We had, it was a buffet and then they were</p> <p>7 particular about separating foods out and then</p> <p>8 making another plate for their one wife.</p> <p>9 Q So you're saying it took you thirty minutes to put</p> <p>10 together a plate for one person and then you had to</p> <p>11 do it for maybe two or three people so you might</p> <p>12 have spent an hour and a half putting together</p> <p>13 plates?</p> <p>14 A I didn't say an hour, I said thirty minutes.</p> <p>15 Q Thirty minutes per one?</p> <p>16 A Total. Total.</p> <p>17 Q Oh, thirty minutes total if you did it for three</p> <p>18 people, okay.</p> <p>19 Did it, did you not perform a particular</p> <p>20 duty ultimately because you were doing that?</p> <p>21 A Yes.</p> <p>22 Q What? What didn't you perform that you should have</p> <p>23 performed?</p> <p>24 A I had all types of work on my desk.</p> <p>25 Q What didn't get done because --</p>

Page 246

1 A Don't, I don't remember.
 2 Q -- you were putting things on a plate?
 3 A Don't remember.
 4 Q Can you point to a single thing that didn't get done
 5 because you were putting food on a plate?
 6 A I could say reading annual report. I mean not --
 7 Q And that's the only thing that --
 8 A -- annual, I mean quarterly report or reading
 9 something the attorney has sent. There are all kind
 10 of things that were coming across my desk that I had
 11 to read, that's why I stayed there sometimes until
 12 12:00 midnight or 2:00 and 3:00.
 13 Q You're saying that you could have used the time
 14 better?
 15 A Yes.
 16 Q Fair to say? Okay.
 17 Do you believe you were terminated because
 18 you're a woman?
 19 A Uh-huh, I do.
 20 Q Is that a yes?
 21 A Yes.
 22 Q Okay, tell me every fact in support of your
 23 conclusion that you were terminated because you're a
 24 woman. After seven --
 25 A Well, after the comments that Marc Stepp has made

Page 247

1 about women, of getting things, not getting things
 2 done. They replaced me with a male.
 3 Q Excuse me, didn't you replace yourself with a male?
 4 A Technically, Ben was there but it was highly, it was
 5 told to me to replace him by Ben. That was through
 6 the personnel committee. Marc will tell you that.
 7 Q Didn't you tell us earlier that he was your choice
 8 because he was the logical one, he was trustworthy,
 9 you could trust him, he was honest and that's why
 10 you wanted him in that job? That's what you
 11 testified to earlier.
 12 A He was the only one that was left but however, that
 13 was, the decision was already made up at the Board.
 14 Q Okay. So you were replaced by a man. Go ahead.
 15 A I was replaced by a man.
 16 Q What else?
 17 A They removed everything out of my office, the office
 18 that I once had. Well, no, that's irrelevant.
 19 Q So these are the facts in support of why you believe
 20 you were terminated because you're a woman, okay?
 21 A Uh-huh.
 22 Q What other, other than the comments by Stepp, we
 23 have the one comment by Stepp.
 24 A I wasn't obedient.
 25 Q Wasn't obedient.

Page 248

1 A By not taking, by not, by going on, not taking what
 2 they told me to do and taking, I took my family
 3 medical leave instead.
 4 Q Okay. Anything else?
 5 A I felt they started to see that I couldn't be
 6 controlled, which is basically the same thing.
 7 Q Who told you that they started to see that you
 8 couldn't be controlled?
 9 A I started talking back to them and Marc especially
 10 did not like that.
 11 They didn't want to consider my, didn't
 12 want to consider me as a vote.
 13 Q They didn't want to consider you as what?
 14 A A vote.
 15 Q Okay.
 16 A Even though it's in the bylaws.
 17 Q They didn't want to consider your vote on whether or
 18 not you should be terminated?
 19 A Yes.
 20 Q You didn't consider that a conflict of interest just
 21 sort of ethically? Like I really shouldn't vote on
 22 this, I sort of have an interest in it?
 23 A Yeah, you know, I, you know, I thought about that
 24 but then I thought about the last two that we had
 25 where they allowed that the president and the CEO

Page 249

1 vote for themselves.
 2 Q Uh-huh.
 3 A And they didn't -- and those were men.
 4 Q Uh-huh.
 5 A So they never stopped them from voting but when it
 6 came to me and I'm a woman, yes, they stopped me
 7 from voting.
 8 Q Okay. So no woman was ever allowed?
 9 A I'm the only woman who has ever been the president
 10 and CEO of Co-Op. So as a position --
 11 Q I don't know what that means. Yeah.
 12 A A position.
 13 Q Okay.
 14 A Maybe let me say it like this, as a position.
 15 Q Wouldn't consider my vote --
 16 A My vote was not considered.
 17 Q Okay.
 18 A Saying it was a conflict of interest and it doesn't
 19 say anything like that in the bylaws.
 20 Q Okay, well --
 21 A So if you go back to that, it will tell you.
 22 Q Okay. But, in fact, your vote was registered,
 23 wasn't it? As a five/four vote?
 24 A Some documents it is, some documents it's not.
 25 Q Okay. Well, in any way, in any event your vote

Page 250

1 didn't make a difference, did it, on the outcome?

2 A No, it was four to five.

3 Q Okay.

4 A With two people absent.

5 Q Okay. So, all right. Any other reason why you

6 think you were terminated because you're a woman?

7 A I'm going to say, I don't know, there could be other

8 reasons but I'm not sure.

9 Q Well, any that you know of factually.

10 A I know. If I come to it, can I bring it up to you

11 later?

12 Q Yeah, if you're not answering another question and

13 confuse us all, yeah, I appreciate that.

14 A Only if you let me.

15 Q Okay. So how do you know that -- assume for

16 purposes of the question that the Board didn't like

17 it that you couldn't be controlled and you started

18 talking back to them.

19 How do you know, the question is, how do you

20 know that's because you're a woman and not just

21 anyone who couldn't be controlled and started

22 talking back to them?

23 A Can I take a break?

24 Q I'd like you to answer that question if you can.

25 MR. SWANSON: Just answer that question.

Page 251

1 WITNESS: Okay. Phrase your question again,

2 please.

3 BY MS. CAULEY:

4 Q Okay. If you were a man -- and there's going to be

5 a couple follow-ups then.

6 If you were a man who was in your position

7 who couldn't be controlled and started talking back

8 to the Board, do you believe that person wouldn't

9 have been fired?

10 A Yes.

11 Q Okay. Why? What's the difference? Why wouldn't

12 the Board fire someone who was talking back to them

13 and couldn't be controlled because they're a man and

14 they would fire someone who was talking back to them

15 and couldn't be controlled who was a woman?

16 A Because I felt that they thought that women were

17 subservient.

18 Q Did they tell you that?

19 A No, it was just the actions.

20 Q And the only action that you know of is after you

21 offered to make plates they continued to ask you to

22 make plates?

23 A Make plates, my, telling me to take two weeks off

24 for vacation opposed to family medical leave.

25 Q Okay.

Page 252

1 A All those things and I didn't obey that.

2 Q Okay.

3 A I told people I disagreed with them. And I have to

4 go to the bathroom.

5 Q Okay. Go ahead.

6 MR. SWANSON: Yeah, let's take a break.

7 (Whereupon an off-the-record discussion was

8 held.)

9 BY MS. CAULEY:

10 Q Do you know of any facts to support a conclusion

11 that you have not been able to get a job because of

12 anything Co-Op did?

13 A I've sent out several, several resumes so I have a

14 list of people that I sent resumes out to.

15 Q Well, we've asked for those, we haven't gotten them.

16 A I haven't sent them to my attorney, I'll be doing

17 that. I was requested yesterday to get that

18 information to you.

19 Q Okay, so back to my question. Do you have any facts

20 to support a conclusion that anything Co-Op did to

21 you --

22 A Oh, yes.

23 Q -- has prevented you from getting a job?

24 A Yes. Everybody has heard about, on the, in the

25 industry about things that are happening or some of

Page 253

1 the rumors and things like that.

2 Q And when you say everyone, how do you know this?

3 A Well, some have been candid to talk to me and some

4 have sent me very nice letters, some have just said

5 no. People that had offered me positions while I

6 was at Co-Op Optical all of a sudden --

7 Q Don't have a position available?

8 A Yes.

9 Q Well, if they don't have a position available, how

10 is that a problem? I mean, you couldn't get it if

11 they didn't have one, right?

12 A You may think it's that way but I think it has

13 something to do with the -- it always comes back to

14 the -- when we talk, it always comes back to well,

15 what happened at Co-Op, we heard this, we heard

16 that.

17 Q If you're telling people what happened at Co-Op, how

18 does that become Co-Op's problem if it gets out in

19 the community?

20 A First of all, I didn't tell you I was telling people

21 what was happening at Co-Op Optical.

22 Secondly, I told them I'm applying for a

23 position and I submitted my resume to them and I did

24 not necessarily disclose it, I just told them that

25 it was time for me to move on.

Page 254

- 1 Q Okay. Did you, after you read the letter, the
2 Broder letter to your executive staff on December
3 14th, did you then discuss it with any other,
4 discuss the allegations any other time with your
5 executive staff?
6 A No.
7 Q Did you ever talk to your executive staff about the
8 investigation that the Board was conducting of you
9 and the status of the allegations?
10 A **I think they, the staff knew that there was an**
11 **investigation being conducted.**
12 Q That wasn't what I asked. I asked you if you ever
13 discussed with the executive board --
14 A **Oh. No.**
15 Q -- about the status of the investigation and the
16 status of the allegations. You never talked to them
17 about that after December 14th?
18 A **Not to my knowledge, I'm not sure.**
19 Q Would you agree that the minutes would be an
20 accurate reflection of what had occurred at meetings
21 like that?
22 A **Yes.**
23 Q Okay. Have you had any interviews since you left
24 Co-Op?
25 A **No.**

Page 255

- 1 Q When were you released to return to work?
2 A **April the 1st. Well, that's what the short-term**
3 **disability but I -- that's when they said that but I**
4 **was not, I'm not released but I'm still looking and**
5 **I volunteer, do other things just to keep my mind**
6 **active. I --**
7 Q I'm sorry, I'm going to interrupt you because your
8 attorney is going to cut me off.
9 A **Okay.**
10 Q And tell me I can't take a deposition past seven
11 hours when you have been over and over again not
12 responding to my question.
13 So I'm going to have to insist that you
14 respond to the question I ask, please.
15 MR. SWANSON: Excuse me, Counsel. That's just
16 not true. You know it, you knew the rules walking
17 in here.
18 MS. CAULEY: The record will reflect it.
19 MR. SWANSON: You've been practicing for how
20 many years?
21 MS. CAULEY: That's fine. The record will
22 reflect it.
23 MR. SWANSON: Just don't make false accusations
24 about me or about my client.
25 MS. CAULEY: I said you're holding me to these

Page 256

- 1 seven hours so as a result --
2 MR. SWANSON: That's not how you said it.
3 MS. CAULEY: I want her to please answer the
4 questions I ask because we've wasted at least an
5 hour by me having to go back over and over again
6 asking for the right answer.
7 MR. SWANSON: The answer that you want. That's
8 exactly --
9 MS. CAULEY: The answer --
10 MR. SWANSON: -- correct because you've reasked
11 the questions repeatedly so you could get the answer
12 you want from her.
13 MS. CAULEY: I want an answer to the question.
14 MR. SWANSON: That's the problem, Counsel.
15 MS. CAULEY: I want an answer to the question.
16 MR. SWANSON: Not the answer you want, she'll
17 give you the truth.
18 BY MS. CAULEY:
19 Q When were you considered to be no longer disabled?
20 A **It hasn't been determined.**
21 Q So you're still disabled from work, is that correct?
22 A **Yes.**
23 Q So you could not be working all this period anyway
24 because of a medical disability, is that correct?
25 A **Correct.**

Page 257

- 1 Q And yet you've been looking for work?
2 A **Yes.**
3 Q And, in fact, you had a possibility out at Beaumont
4 maybe that just didn't work out, is that right?
5 A **No.**
6 Q You never told anyone that you had a job opportunity
7 out in Beaumont that didn't work out?
8 A **No.**
9 Q Okay. Never sent an email to someone telling them
10 that?
11 A **No.**
12 Q Would you agree that if employees believe that there
13 is misconduct occurring at a company that they have
14 a duty to report that to someone who can do
15 something about that?
16 A **If it was true.**
17 Q Okay. And you've admitted that you have violated
18 the credit card policy, that was true, right? You
19 admitted that?
20 A **Yes.**
21 Q You admitted that as of December 8th you hadn't told
22 the Board of Directors about the OFIR meeting on
23 December 1st, right?
24 A **Yes.**
25 Q You admitted that you had a number of your relatives

Page 258

1 working for the company?
 2 A Yes.
 3 Q Okay. You admitted that the CEO was removed from
 4 overseeing payroll and that your niece was put in
 5 charge of payroll, is that right?
 6 MR. SWANSON: CEO?
 7 BY MS. CAULEY:
 8 Q CFO, sorry.
 9 A Yes.
 10 Q Okay. You admit also that you sent an email to Ted
 11 Winiarski, Matt Groen and Larry Gardiner that they
 12 were not to discuss anything that occurred at the
 13 December 1st meeting?
 14 A Yes.
 15 Q Okay. Did you go to California in September 2009
 16 for your uncle's funeral?
 17 A Yes.
 18 Q And did you also conduct business at that, on that,
 19 at that time?
 20 A Yes.
 21 Q With whom did you conduct business?
 22 A With VSP.
 23 Q Who did you -- I'm sorry?
 24 A VSP, the CEO. Well, the former CEO there.
 25 Q And who is that person, what is that person's name?

Page 259

1 A I don't remember his name.
 2 Q When did he stop being the CEO?
 3 A Shortly after I left.
 4 Q Okay. Did you conduct any other business on that
 5 trip?
 6 A No, that was, no. He was kind enough to come to the
 7 wake and invite us down to the office.
 8 Q And who is us?
 9 A I have -- Craig Jones with, is another insurance
 10 company that was trying to connect me with VSP so we
 11 can accept VSP for insurance to improve revenue.
 12 Q So this former CEO whose name you can't remember
 13 came to your --
 14 A Actually, they --
 15 Q -- uncle's wake?
 16 A I don't know if he was a CEO. He was a
 17 representative but he was high up.
 18 Q You don't even remember his first name?
 19 A It was kind of like an Italian name but I don't
 20 remember.
 21 Q If there's testimony in this case that no one at VSP
 22 met with you during that meeting, would you have a
 23 basis to dispute that? Any facts or documents or
 24 anything to support that?
 25 A Yeah, I have his card. The card is left at Co-Op

Page 260

1 Optical in my Rolodex.
 2 Q Does it say on the card, I'm meeting with you on
 3 such and such a date?
 4 A No, it says VSP, it says VSP and it has his name on
 5 there. It may have said the meeting date on my
 6 Rolodex at the office.
 7 Q Okay. Did you ever tell anyone that you conducted
 8 business with anyone else other than VSP when you
 9 were in California for your uncle's funeral?
 10 A Craig Jones.
 11 Q And --
 12 A Risk Management which is another insurance company
 13 to try to get business for Co-Op Optical.
 14 Q Anyone else?
 15 A No.
 16 Q Okay. How many days were you gone for that funeral?
 17 A The funeral itself took about three days.
 18 Q And did you stay over after that to conduct
 19 business?
 20 A Yes, I stayed, yeah.
 21 Q How much longer did you stay?
 22 A I think the total we were there about maybe five
 23 days total. I'm not sure.
 24 Q Okay. And did you stay at a hotel?
 25 A No.

Page 261

1 Q Who did you stay with?
 2 A I stayed with Craig Jones.
 3 Q Okay. The whole time?
 4 A He's a cousin.
 5 Q The whole time?
 6 A Yes.
 7 Q Oh, okay. Are you now or have you ever been -- I'm
 8 not going to ask if you've been a member of the
 9 communist party, remember those questions, have you
 10 now or have you ever been --
 11 Are you now or have you ever been an Amway
 12 representative?
 13 A Yes.
 14 Q Okay. Did you ever give Amway gifts, gift cards to
 15 employees at Co-Op?
 16 A Yes, we did.
 17 Q Did Co-Op pay for those?
 18 A Yes.
 19 Q Okay. And did they pay for them through you? I
 20 mean, did you, did you purchase them through, I
 21 mean --
 22 A They, we, I gave -- what we did, we just gave
 23 everybody their own number so they can make the
 24 purchases for the gift cards.
 25 Q Okay.

Page 262

1 A And then if there was any, any monies that came back
 2 in my name that was related to those gift cards,
 3 they were donated to the Co-Op Optical scholarship
 4 fund.
 5 Q Okay, well, okay. But who bought the gift cards?
 6 A F.L. King, Armida Parisi, sometimes we would put
 7 them on my card, Jackee Smith.
 8 Q Okay, okay. But they were all paid for by Co-Op?
 9 A Yes.
 10 Q That's what -- so Co-Op bought these cards, these
 11 gift cards?
 12 A Uh-huh.
 13 Q Through whom at Amway did they buy those cards? Was
 14 it through you?
 15 A It would go through me, yes.
 16 Q Okay. And did you receive a commission for selling
 17 those cards?
 18 A Yes.
 19 Q Okay. Did you donate that commission back to Co-Op?
 20 A Yes, I did, to the scholarship fund.
 21 Q Okay. What records show that?
 22 A I gave the checks to Co-Op Optical.
 23 Q And when did that happen, to whom did you give the
 24 checks?
 25 A I gave them to the front desk because they record

Page 263

1 the checks.
 2 Q Okay. And what do the checks say, what's the
 3 amount?
 4 A Sometimes, sometimes I would, depending, depending
 5 on what it was, sometimes I would order products for
 6 myself because I still use their products. But if
 7 there was something directly, directly from Co-Op, I
 8 would write, give the check that said Amway to Co-
 9 Op. I would give or I would write my personal check
 10 out and give it to Co-Op Optical for and I would put
 11 down memorial scholarship fund.
 12 Q So is it your testimony that you gave all of your --
 13 I'm going beyond what you said but I want to get it
 14 clear.
 15 A Uh-huh.
 16 Q Did you give all of your profits from Amway to the
 17 Co-Op scholarship fund?
 18 A No, only when the Amway gift cards were purchased.
 19 Q Okay. And how many times did that happen?
 20 A I have no idea. We used them for the tenure
 21 recognition.
 22 They were suggested to be used for the
 23 tenure recognition not by myself but from former
 24 executives before I was the president and the CEO.
 25 Q Okay. And if I wanted to go back and find out --

Page 264

1 A Uh-huh.
 2 Q -- where you gave this money back to the scholarship
 3 fund, how, where would I look?
 4 A You should look in the Co-Op Optical records because
 5 we kept record of all of the checks and took copies
 6 of the checks as they came in.
 7 Q Okay. What records?
 8 A Records of the checks.
 9 Q So there's a check register --
 10 A Yes.
 11 Q -- that takes every check that ever came into Co-Op?
 12 A Right. It's a check, when -- every check that comes
 13 into Co-Op Optical, it is written down and it is
 14 given to the person at the front desk and it's, it's
 15 a process to make sure everybody is honest.
 16 So if I give the check to, I would give it
 17 to the front desk, the front desk would give them to
 18 accounts receivable, accounts receivable would
 19 process it then someone else would take it to the
 20 bank.
 21 Q Okay. So --
 22 A So Co-Op has the records.
 23 Q So if we look in those records we're going to find
 24 checks from you to the Co-Op Optical scholarship
 25 fund?

Page 265

1 A Sure.
 2 Q And is it going to say on there that this is Amway
 3 commissions or --
 4 A No, it didn't say all that. It may, I'm not sure
 5 what I wrote on there.
 6 Q Okay.
 7 A I just said Co-Op scholarship fund.
 8 Q Okay. And you don't know how many times you wrote
 9 such checks?
 10 A It wasn't, it wasn't that often.
 11 Q Okay. But it was always in connection with your
 12 commission for the --
 13 A It wasn't that large amount of money either.
 14 Q Pardon me, please. It was always in connection with
 15 your giving money back from your commissions from
 16 Amway, is that right?
 17 A Yes, uh-huh. And I'm not a member of Amway.
 18 Q But you sell -- did I say it wrong?
 19 A You could, you could be, yeah, they'll send you,
 20 they send you points. You get money on points, not
 21 dollars.
 22 Q Oh, okay.
 23 A Like the points will add up and it will turn into a
 24 dollar amount. So sometimes the checks may be three
 25 and four dollars.

Page 266

- 1 Q Okay. Did Co-Op do business with NVA?
- 2 A Yes.
- 3 Q And did there come a time when you engineered -- I
- 4 don't, I'm not using it as a pejorative word but
- 5 when you managed to negotiate a change in the way
- 6 Co-Op paid NVA, like you used to pay for like a cost
- 7 per claim and then now you're paying cost per member
- 8 or something like that?
- 9 A Yes.
- 10 Q Is that ringing a bell?
- 11 A Uh-huh, it does.
- 12 Q Forgive me because I don't understand this and I
- 13 should --
- 14 A What happened is that NVA no longer carried that
- 15 policy so what it was, because we were an insured
- 16 program and not necessarily a program that paid per
- 17 fee, we negotiated an administrative fee of forty-
- 18 five to fifty-five cents depending on the amount of
- 19 people which comes out to be a lot cheaper than a
- 20 claim by fee in the beginning.
- 21 How it is now with the reduction of
- 22 membership, it may be a little bit different.
- 23 But at that particular time and the person
- 24 that was in charge of the accounting department at
- 25 that time showed that we came out better by -- and

Page 267

- 1 I'm not a numbers person so the person that was in
- 2 charge of the numbers or the figures at that time
- 3 and I don't think it was Ted, it came out to show
- 4 that it was cheaper for us to have a claim per
- 5 member.
- 6 And they also did our geo access, they
- 7 provided the customer service so it was a service
- 8 fee, not a fee for, a claim for fee. They no longer
- 9 would do that.
- 10 Q Oh, you're saying it wasn't possible to continue
- 11 on --
- 12 A No.
- 13 Q -- the claim for fee?
- 14 A No.
- 15 Q That it had to be done a different way?
- 16 A Right. And they'll tell you that, too.
- 17 Q Who at --
- 18 A Dave Karlin, the president.
- 19 Q K-A-R-L-I-N.
- 20 A Dave Karlin at NVA.
- 21 Q Okay.
- 22 A And also Millie Monaco.
- 23 Q Did you put a lawsuit against Artis Thomas on behalf
- 24 of Co-Op?
- 25 A I sure did.

Page 268

- 1 Q Okay. And did you win?
- 2 A Yes, we did.
- 3 Q Did it go to trial?
- 4 A No, we settled in the judge's chambers.
- 5 Q Okay. And how much was it settled for?
- 6 A About three thousand something dollars. The judge,
- 7 the judge convinced us we couldn't get blood out of
- 8 a turnip. No one believed that she was, messed up
- 9 payroll except for me.
- 10 Q Okay.
- 11 A And we chose to try to get something back from her
- 12 so we were able to get something back by her and the
- 13 judge said we could also prosecute her so we -- the
- 14 judge, I think there was a connection, she with the
- 15 judge. She -- judge talked us out of prosecuting
- 16 her and tried to get us to come down, to come down
- 17 to a rate that or some type of fee to settle.
- 18 Q Do you know how much it cost Co-Op to go after that
- 19 three thousand dollars?
- 20 A Yes, we do but we also found that --
- 21 Q How much was that?
- 22 A About, I think, it started to build up, it was
- 23 probably about twenty thousand.
- 24 Q Wasn't it more like sixty thousand dollars?
- 25 A That's a lie. It shouldn't cost about sixty

Page 269

- 1 thousand dollars.
- 2 Q Wasn't it twenty thousand dollars just for the
- 3 computer forensics and another fifty-seven thousand
- 4 for attorney's fees?
- 5 A Well, you know what, if it was it was a lesson
- 6 learned.
- 7 Q And --
- 8 A Because people -- she came into our, into our
- 9 computers and committed larceny in the building.
- 10 Q How much money did you spend on the Pistons and the
- 11 Palace over like --
- 12 A Two hundred and fifty-one thousand.
- 13 Q Oh. And at some point in time did that all have to
- 14 get paid back? How did that, I mean, how did you
- 15 pay for all that? Was it paid --
- 16 A It paid, was --
- 17 Q -- all in glory days or --
- 18 A No, it was paid over payments over a series of
- 19 years.
- 20 Q Okay.
- 21 A And that was for us to get more name recognition.
- 22 Q Okay.
- 23 A Tickets were thrown in, other things were thrown in
- 24 as packages.
- 25 Q Did you --

Page 270

- 1 A We did the circus. It wasn't just the Pistons, we
 2 were a part of the circus, we were part of the Globe
 3 Trotters and other things.
 4 Q Did you ever go to any of those events?
 5 A No. I went to, I went to the -- I'm not a sports, I
 6 can't stand sports so to go to those events, no.
 7 I would give them to our clients, I would
 8 give them to the employees and that was it.
 9 Q So it's your testimony you never went to any Pistons
 10 games?
 11 A I went to a Pistons game but to tell you what
 12 happened at that game, I couldn't even tell you who
 13 won.
 14 Q But --
 15 A Or who was playing. Yes.
 16 Q I'm sorry, I don't know how you were confused before
 17 when I asked if you ever went and you said no and
 18 then now you're saying yes.
 19 A Well, I'm thinking.
 20 Q Yes but I didn't pay attention.
 21 A I went when they had, when we were at, went to
 22 suite.
 23 Q Okay. How many times did you go to Pistons games?
 24 A Less than a dozen.
 25 Q Did you take your husband?

Page 271

- 1 A He came sometimes.
 2 Q What concert did you sponsor from Co-Op?
 3 A What concert?
 4 Q Ever sponsor a concert?
 5 A Oh, Chene Park Concert Series.
 6 Q Okay.
 7 A Chene Park in Detroit.
 8 Q How much did that cost?
 9 A I think it was like ten thousand a year.
 10 Q For how many years?
 11 A We started back in 1984.
 12 Q How many years did you sponsor concerts as CEO?
 13 A Nineteen, well, I just kept on so it was 2004
 14 through two thousand and about eight. Well, when
 15 Kwame Kilpatrick came in, we no longer sponsored
 16 them.
 17 Q Okay. Who is Tim Romish?
 18 A Tim Romish was an employee that's related to Matt
 19 that was brought into our office and found out that
 20 he had a criminal record but he was vindicated but
 21 they wanted him terminated so we, he was terminated
 22 for his act.
 23 Q Was it a practice at Co-Op to pay for terminated
 24 employees' insurance after the date of termination?
 25 A I don't know how that happened.

Page 272

- 1 Q My --
 2 A That's not a policy, no.
 3 Q Okay, all right. Was Tim Romish paid Blue Cross
 4 Blue Shield benefits for six months after he left?
 5 A Not to my knowledge.
 6 Q You did not approve that?
 7 A No.
 8 Q You did not direct that?
 9 A No.
 10 Q Would you believe that at the end you did not have a
 11 supportive and loyal executive team around you?
 12 A I believe that, I knew at the end I didn't have a
 13 loyal executive team around me.
 14 Q Okay. And other than Ted, you had built that team,
 15 is that right?
 16 A Yes. Well, no, Ted was, I put Ted on the executive
 17 staff.
 18 Q Oh, okay. So he -- you had built your entire team
 19 that was no longer loyal to you, is that right?
 20 A True.
 21 Q Okay. At the time you left Co-Op, was Co-Op on hold
 22 with some suppliers?
 23 A Yeah, manufacturing suppliers.
 24 Q What does that mean to be on hold?
 25 A Means that they were not, accounting, they were not

Page 273

- 1 being paid.
 2 Q Had you --
 3 A And they were not --
 4 Q Oh, I'm sorry.
 5 A -- replenishing the supplies.
 6 Q Okay. They wouldn't send any money until they got
 7 paid, is that right?
 8 A Right. We were having so much waste and our bills
 9 were so high, that's why we wanted to close the lab,
 10 part of the lab. We had so much waste and they're
 11 so much higher, there were still vendors that were
 12 outstanding that we were not paying.
 13 Q Who told you there was so much waste at the lab?
 14 A I could see it myself, I worked in the lab.
 15 Q Who told you there was so much waste in the lab?
 16 A I saw it myself.
 17 Q You saw it in 2009?
 18 A Oh, I'm sorry. I can tell you who told me. In
 19 yeah, 2009, too, yes.
 20 Q You worked in the lab in 2009?
 21 A The employees in the lab was telling me.
 22 Q The employees in the lab were telling you that there
 23 was waste in the lab?
 24 A The employees that were concerned, yes.
 25 Q Had there been any audit done of that through the

<p style="text-align: center;">Page 274</p> <p>1 finance department or your, you know, your money</p> <p>2 people?</p> <p>3 A The finance department and operations departments</p> <p>4 were buddies. So what -- they believed each other</p> <p>5 no matter what happened. That was Charles Benson</p> <p>6 and Ted Winiarski.</p> <p>7 So they would audit each other, they'd</p> <p>8 justified it. Whatever Charles told Ted, Ted</p> <p>9 believed it.</p> <p>10 Q Okay. Now could you answer the question I asked</p> <p>11 you? Was there ever --</p> <p>12 A I thought that was.</p> <p>13 Q I asked if there was an audit done.</p> <p>14 A No.</p> <p>15 Q Okay.</p> <p>16 A It may, unless they made up an audit, no.</p> <p>17 Q Did anyone under the CFO ever tell you that the</p> <p>18 waste in your lab was right at par with the standard</p> <p>19 in the industry of four to five percent?</p> <p>20 A Everything I don't believe.</p> <p>21 Q Did anyone tell you that? I'm asking you.</p> <p>22 A No.</p> <p>23 Q No one from the CFO's office or the CFO himself</p> <p>24 ever --</p> <p>25 A No.</p>	<p style="text-align: center;">Page 276</p> <p>1 A I saw the remakes coming back, ma'am.</p> <p>2 Q Was it your belief that one out of every two pair</p> <p>3 almost was wasted?</p> <p>4 A Uh-huh. Uh-huh.</p> <p>5 Q Okay.</p> <p>6 A And I heard it from the retail employees as well.</p> <p>7 They were all concerned.</p> <p>8 Q Did you hire a new law firm right toward the end</p> <p>9 before you left Co-Op, the Rehman Group?</p> <p>10 R-E-H-M-A-N.</p> <p>11 A I'm sorry?</p> <p>12 Q A CPA firm, I'm sorry, I said law firm.</p> <p>13 Did you hire a new CPA firm, the Rehman</p> <p>14 Group?</p> <p>15 A No.</p> <p>16 Q Did you have any conversations or exchanges of</p> <p>17 communications with anyone from the Rehman Group?</p> <p>18 A People always talked about that but we were very</p> <p>19 satisfied with Huggifer (phonetic).</p> <p>20 Q Okay, I --</p> <p>21 A And they were just changing partners. No.</p> <p>22 Q My question ma'am --</p> <p>23 A No.</p> <p>24 Q Did you have any conversations or exchanges of</p> <p>25 communication with anyone from Rehman toward the end</p>
<p style="text-align: center;">Page 275</p> <p>1 Q -- informed you that, in fact, that was the truth?</p> <p>2 A No. Not to my knowledge.</p> <p>3 Q Do you have any way to argue with that point? Any</p> <p>4 facts to support a conclusion that's different than</p> <p>5 the waste, then that the waste was at four to five</p> <p>6 percent?</p> <p>7 A Yes. Because we compared it, the waste, with OMG.</p> <p>8 OMG's waste was not as high as ours and they're OMG,</p> <p>9 Optical Management Group.</p> <p>10 Q Uh-huh.</p> <p>11 A OMG's waste was -- our waste was a lot higher than</p> <p>12 theirs.</p> <p>13 Q What was Co-Op's waste?</p> <p>14 A As you said, to me it was probably, I feel it was</p> <p>15 about forty, forty, forty-five percent.</p> <p>16 Q No, I said four to five percent.</p> <p>17 A No, I believe it was forty to forty-five percent.</p> <p>18 Q Okay. On what do you base that belief?</p> <p>19 A On the employees. Sometimes the employees know a</p> <p>20 lot more than the officers.</p> <p>21 Q Okay.</p> <p>22 A Or the CFO.</p> <p>23 Q So it's your belief that almost one out of every</p> <p>24 pair of, one out of every two pair of glasses was</p> <p>25 waste?</p>	<p style="text-align: center;">Page 277</p> <p>1 of your tenure at Co-Op?</p> <p>2 A No.</p> <p>3 Q Who prepared the minutes of the December 1st meeting</p> <p>4 with OFIR? I asked you that already, I'm sorry,</p> <p>5 you've answered that.</p> <p>6 Where do you look when you say you're</p> <p>7 looking for work?</p> <p>8 A Where do I look?</p> <p>9 Q Yes.</p> <p>10 A I look in the healthcare industry.</p> <p>11 Q Okay. Where? I mean --</p> <p>12 A Vision, dental.</p> <p>13 Q What do you look at? Is it online, is it in the</p> <p>14 newspaper, is it --</p> <p>15 A Oh. I look at Crain's.</p> <p>16 Q Okay.</p> <p>17 A I look at, I looked in the phone book for</p> <p>18 headhunters, I look at, I go by referrals.</p> <p>19 Q Okay.</p> <p>20 A Things of that nature.</p> <p>21 Q If you can't work, why are you looking for work?</p> <p>22 A Because I want to be prepared to go back to work. I</p> <p>23 want to work. The time is -- you look and it takes</p> <p>24 sometimes four, five, six, seven months before</p> <p>25 somebody may call you.</p>

Page 278

1 Q Okay.

2 A So I don't want to sit around and wait, I want to be
3 prepared to work.

4 Q Do you, when you apply for jobs do you tell them I'm
5 not able to work but maybe someday I will be or, I
6 mean --

7 A No, they don't really --

8 Q I'm going to be in a few months?

9 A No, that doesn't happen. Either half knows about
10 the ordeal at Co-Op Optical or the other half does
11 not have a position so they do not ask that
12 question.

13 Q Okay.

14 A I haven't ran into that question yet.

15 Q Has anyone told you or otherwise indicated to you
16 verbally, nonverbally, in some kind of measurable
17 way that they're not interested in hiring you
18 because of what happened at Co-Op?

19 A Indirectly.

20 Q Who?

21 A I'd have to look at my list. I've sent out so many
22 different resumes.

23 Q And this is the list that I've asked for and haven't
24 gotten, right?

25 A Yes.

Page 279

1 Q So --

2 A I just found out about it yesterday.

3 Q Then I can't ask you questions about it because you
4 have to look at your --

5 A Right, have to look it up.

6 Q -- list, is that right?

7 A Uh-huh.

8 Q Well, what medical conditions do you have that you
9 blame Co-Op for?

10 A My depression.

11 Q Uh-huh.

12 A Anxiety.

13 Q Uh-huh.

14 A Panic attacks.

15 Q Uh-huh.

16 A Chronic insomnia.

17 Q Uh-huh.

18 A Joint pains.

19 Q Uh-huh.

20 A Migraines.

21 Q Uh-huh.

22 A Already had high blood pressure. That's it.

23 Q You didn't have migraines before December 1, 2009?

24 A Not on a regular basis like I have them now.

25 Q You didn't have joint pains before?

Page 280

1 A Not on a regular basis and different joints have
2 started to hurt me now.

3 Q Who has --

4 A And my hands are bending. My fingers.

5 Q Joint pain is from what? Is it from rheumatoid
6 arthritis or something or do you have a condition
7 from which the joint pains are coming?

8 A He said it's arthritis but the stress is aggravating
9 them. The arthritis, you can see it in my hands.

10 Q And does the migraine come from arthritis as well?

11 A No, the migraines comes from stress.

12 Q Okay. Insomnia, did you ever have that before?

13 A No.

14 Q Who treated you prior to December 1, 2009? Who was
15 your primary --

16 A Primary care physician? Dr. Lanore Najor.

17 Q Is there a company called March out in California?

18 A March Vision.

19 Q Okay. You didn't do business with them though when
20 you went out to your uncle's funeral?

21 A Oh, sure did. I forgot about that, yes, we did.

22 Q Okay.

23 A I'm sorry. And that's Dr. March.

24 Q Oh, it's -- okay.

25 A I forgot, thank you.

Page 281

1 Q Did you purchase a coat and hat and gloves for Sal
2 Parisi when he was first hired at Co-Op?

3 A Yes, I did.

4 Q Co-Op pay for that or did you?

5 A I paid for it.

6 Q You paid for it personally?

7 A Yes, I did.

8 Q Okay. Did you involve anyone else at Co-Op in
9 purchasing those?

10 A Yes, I asked Ted. I asked Ted's opinion on what to
11 purchase because he was a man.

12 Q Okay.

13 A He was there, he had ordered it over for me on the
14 Internet for me.

15 Q And you didn't charge that to Co-Op?

16 A No, I did not, I charged it on my own credit card.

17 Q Okay.

18 A And if I charged it on Co-Op's credit card, I think
19 I put, wrote a check out.

20 Q So there would be a check there, it would show it in
21 the records that you gave a check to pay for this?

22 A Yeah. Yeah, but I think I --

23 Q If it was on the credit card?

24 A Yes.

25 Q From where was it purchased, do you remember?

Page 282

- 1 A JC Penney.
- 2 Q Okay. Did you become aware of, did you impose a
- 3 twenty-four-dollar copay on union employees and
- 4 families who used the eyecare benefit at Co-Op?
- 5 A Yes.
- 6 Q Okay. Was that negotiated in the contract?
- 7 A **It didn't have to be. On our contract is medical**
- 8 **and we increased their vision contract, their vision**
- 9 **benefits. We were giving away four, five, six**
- 10 **hundred dollars worth of products and nothing was**
- 11 **coming in.**
- 12 **It's no different than what you said with**
- 13 **Artis Thomas and what we put in there. We're**
- 14 **paying, we ran, we were paying six figures in**
- 15 **optical products and receiving nothing for it.**
- 16 Q Have you notified the union that you were going to
- 17 make this twenty-four dollar --
- 18 A **No, I did not, I didn't have to.**
- 19 Q Could you let me finish my question so she can get
- 20 it down without us talking over, please.
- 21 A **I'm sorry.**
- 22 Q Under what authority did you do that?
- 23 A **The authority of the CEO.**
- 24 Q Okay. Do you know if that still stands or if that's
- 25 changed?

Page 283

- 1 A **I don't know what they've done now.**
- 2 Q Okay. In front of you is a notebook with documents
- 3 Bates stamp numbered one through four fifty-four.
- 4 And these are documents that were produced on your
- 5 behalf by your attorneys.
- 6 Some of these document, not all of them
- 7 but some of them include things like Power Point
- 8 presentations that were made, financial documents of
- 9 Co-Op, some minutes.
- 10 Under what authority did you remove any
- 11 Co-Op documents from Co-Op?
- 12 A **It was on my computer, primarily, I would send it on**
- 13 **the computer.**
- 14 Q Okay. Was there a policy at Co-Op that said you
- 15 cannot remove any documents from Co-Op?
- 16 A **No.**
- 17 Q No such policy?
- 18 A **No. People removed documents from Co-Op but you**
- 19 **have to bring them back. You sign them out.**
- 20 Q Doesn't it say in the policy that it's considered to
- 21 be a major, major rule -- let me go back.
- 22 Your policies talk about major rules and
- 23 minor rules. Major rules are things for which you
- 24 can be terminated immediately, right, in the policy
- 25 handbook?

Page 284

- 1 A **Uh-huh.**
- 2 Q Is that right?
- 3 A **Uh-huh.**
- 4 Q Is that a yes?
- 5 A **Yes.**
- 6 Q Okay. And isn't one of those major rules that you
- 7 may not misuse or remove from the premises without
- 8 authority of Co-Op, company records?
- 9 A **That's medical records.**
- 10 Q It doesn't say. It says company records.
- 11 A **Okay. But that meant to be medical records because**
- 12 **of HIPAA rules.**
- 13 Q Wouldn't it say medical records if it was about --
- 14 A **Well, it should have said but that, that was when --**
- 15 Q So you're saying there's no policy that --
- 16 A **That was written by Mr. Patrick Korth, he was an**
- 17 **attorney so if he didn't put medical records down,**
- 18 **that's, that's not me.**
- 19 Q Okay. But that was the policy of the company, that
- 20 you couldn't remove company records. Don't you
- 21 consider financial records of the company company
- 22 records?
- 23 A **No, some were actually my records that they gave to**
- 24 **me.**
- 25 Q For use in your job, right?

Page 285

- 1 A **Right. On the --**
- 2 Q Not for personal use?
- 3 A **It's hard to delete all that stuff off the computer.**
- 4 **Everything that I had, I sent it back to**
- 5 **Ben Edwards that was on the computer. If I had**
- 6 **something at home, I don't know.**
- 7 Q Is it accurate to say the Board of Directors never
- 8 gave you authority to remove any company records
- 9 from Co-Op?
- 10 A **They did not say that until Ben Edwards took over**
- 11 **and then I started sending things back to Ben.**
- 12 **But --**
- 13 Q I'm not sure what your answer means, I'll have to
- 14 ask the question again, see if I can get an answer.
- 15 Did any board member at Co-Op ever give
- 16 you authority to remove records from Co-Op? Company
- 17 records.
- 18 A **Did they give me authority? No.**
- 19 Q Yes, that's what I was -- thank you.
- 20 Was your FMLA leave that you took in 2010, was
- 21 that the only FMLA leave you ever took from the
- 22 company?
- 23 A **Yes.**
- 24 Q You never had other medical leaves?
- 25 A **No.**

Page 286

1 Q Okay. Do you know, do you have any understanding I
2 guess is a better way to ask, of Marc Stepp's and
3 Mr. Murphy's expertise in terms of FMLA?
4 For example, do you know, were they
5 responsible for administering FMLA at Co-Op?
6 A They should know.
7 Q I'm sorry?
8 A I'm sure they should know and they should
9 administer, they're the compensation and committee.
10 Q No, okay, let me ask you again. You're the CEO --
11 A Maybe I don't understand your question.
12 Q You're the CEO. Was it Marc Stepp's responsibility
13 to administer FMLA at Co-Op?
14 A I don't know what you mean by administer.
15 Q Well, handle it, decide who gets to go, who doesn't
16 get to go, all that, handle the paperwork.
17 Whose job was that? Was that Temeng's?
18 A Probably so.
19 Q Okay. Was it Mr. Murphy's responsibility?
20 A Yes.
21 Q I thought it was Temeng's responsibility?
22 A Well, why would you ask me about Mr. Murphy?
23 Q Well, I'm just checking. I mean, you said Temeng
24 was responsible so you're saying now Temeng and
25 Murphy were responsible?

Page 287

1 A Temeng is, Temeng is human resources, he would have
2 to process the paperwork. Ray Murphy is not going
3 to go in there and process the paperwork.
4 Q Okay.
5 A Marc Stepp should be aware of it as well because
6 he's, why be in personnel and compensation if you
7 don't have any idea of the federal laws.
8 Q Okay. As the CEO, do you know of any specific
9 knowledge or understanding that either one of them
10 have regarding the FMLA?
11 A I don't know of any knowledge of understanding they
12 have under FMLA.
13 Q Okay.
14 A I informed them, though.
15 Q When you -- of what?
16 A Of FMLA. It was, that's my job to inform them of
17 the Family Medical Leave Act.
18 Q What did you inform them of?
19 A Of what the definition of.
20 Q When did you do this?
21 A When it, that was years ago. Because some people
22 were taking, people were taking leaves, we had a lot
23 of people taking leaves under family medical act
24 having babies or something like that.
25 So what we did was tell them that these --

Page 288

1 we would replace employees, hire employees and they
2 wanted to know what happened so we said that they're
3 under the family medical leave.
4 That should be reflected in some of the
5 minutes from years have past.
6 Q Okay. And that was the extent of it? You'd say all
7 these people are out on FMLA?
8 A And then I would explain to them that it's a federal
9 law.
10 Q And so you explained it was a federal law that they
11 were under FMLA?
12 A Yeah.
13 Q Is that right?
14 A Because they were wondering why we were bringing
15 more people in.
16 Q Okay. So how did it come that you -- what happened,
17 when was the first conversation you had with anyone
18 at Co-Op regarding leaving?
19 A Excuse me?
20 MR. SWANSON: Leaving?
21 BY MS. CAULEY:
22 Q Leaving the company.
23 A I didn't leave the company, I was terminated.
24 Q Well, you're no longer at the company. When was the
25 first time you had any discussion with anyone at the

Page 289

1 company about you leaving?
2 A Leaving for family medical leave or --
3 Q Leaving the company, leaving employment with the
4 company.
5 A What conver -- I'm sorry, I misunderstood you, now
6 say that again.
7 Q Didn't you have conversations with some board
8 members about you leaving the company, whether it be
9 through retirement, resignation, termination,
10 whatever?
11 A Oh. That was in March, middle of March. I
12 contacted Raymond Murphy and I asked him, I would
13 like to know what my future is at the company, which
14 I thought was a normal question.
15 He said, let me arrange something. He
16 called me back and we met at Sammy's Restaurant on
17 Eight Mile Road and discussed and discussed the
18 position.
19 Q And who was there?
20 A Raymond Murphy, Marc Stepp, Larry Smith and
21 Jacqueline Smith.
22 Q What occurred during that meeting?
23 A They encouraged me to resign.
24 Q Okay. Did they say why?
25 A I'm not there.

Page 290

1 Q They wanted you to resign because you weren't there?

2 A Right.

3 Q Okay.

4 A I explained to them under family medical leave and

5 that's why I'm not there.

6 Q Okay. What else was said?

7 A Someone said that they had to go and the meeting

8 ended and they said that they were going to have

9 another meeting tomorrow over Raymond Murphy's house

10 on Chicago Boulevard.

11 Q Did you go to that meeting?

12 A I did.

13 Q Okay. Who was there?

14 A Lashondra White or West, I'm not sure of her last

15 name, she's new. Marc Stepp, Ray Murphy, Larry

16 Smith, Jacqueline Smith.

17 Q And what occurred at that meeting?

18 A Once again they asked me what I wanted in order to

19 resign.

20 A list was made out of what my demands

21 were if they wanted me to just resign after I

22 returned at April 1st and they said that at that

23 particular time they were going to make that happen.

24 Q They said they were going to, they were agreeing to

25 your demands?

Page 291

1 A Yes, they were going to agree, yeah. And I have a

2 witness, Larry Smith.

3 Q Okay.

4 A That was there. The next day we had another

5 meeting, they called a board meeting for everybody

6 without a subject and very quickly and two board

7 members were missing that were more on my side.

8 And they had a resignation letter filled

9 out for me and told me that my severance package

10 would come later after discussion with the

11 compensation committee.

12 I refused to sign the letter.

13 Q Uh-huh.

14 A Therefore, they said that they were going to take a

15 vote and see whether I should remain as president

16 and CEO.

17 A vote was taken, the vote came out five

18 to four in favor of me being terminated while on

19 family medical leave.

20 Q Did anyone at the second meeting tell you why they

21 were discussing with you resignation?

22 A No. Basically because I, basically because I was

23 not there.

24 Q Well, no. Did they say that at the second meeting?

25 I just want what was said.

Page 292

1 A Well, Marc said it several different times, you're

2 not here. Reduce the salary of the CEO, you're not

3 here, Ben's doing a good job and that's it.

4 Q And Marc said that. Did Mr. Murphy say anything as

5 to why?

6 A Murphy was quiet, he was mute most of the time.

7 Q And did Lashondra say anything?

8 A Lashondra didn't say very much either.

9 Q Okay.

10 (Document Marked for Identification as

11 Defendant's Exhibit No. 30)

12 BY MS. CAULEY:

13 Q Does this document reflect the demands that you

14 needed in order to be, in order to resign?

15 A Some of it, yes.

16 Q Was there more than this?

17 A No. The vehicle, I wasn't going to purchase a

18 vehicle.

19 Q Well, this says that you were going to have to

20 purchase another vehicle, your own vehicle?

21 A Yes, oh, okay, another vehicle.

22 Q So is this accurate or not?

23 A Yes.

24 Q Okay. Was it your intent to harm Co-Op in

25 connection with your leaving it?

Page 293

1 A No.

2 Q Okay. How did you figure --

3 A I loved Co-Op, I still do.

4 Q How did you figure Co-Op was going to pay you a

5 hundred and fifty thousand dollars without hurting

6 it?

7 A One of the things that it says, it does not need to

8 be paid in one lump sum payment, it can be spreaded

9 out over twelve months.

10 Q Okay. But with your demand, you wanted them to pay

11 you as a CEO and pay somebody else that's running

12 the company as the CEO, is that fair to say? I

13 mean, that's kind of what it would be like, right?

14 A Sometimes that's what severance pay is all about,

15 yes.

16 Q Okay. Given the financial situation that Co-Op was

17 facing at the time that you left, did you have an

18 understanding of how they could possibly make that

19 happen and not harm the company?

20 A They harmed me but they didn't think of that.

21 Q That wasn't my question. Did you have an idea of

22 how --

23 A I can make that statement.

24 Q -- that could happen without harming Co-Op? Was

25 there any way that you know of as the CEO that they

Page 294

1 could have agreed to pay a hundred and fifty
 2 thousand dollars to somebody without hurting the
 3 company in the state they were in?
 4 **A After thirty-two -- no. Say --**
 5 **Q** Do you know of any way in which Co-Op -- because you
 6 were the boss --
 7 **A I think they would be harmed.**
 8 **Q** Excuse me, ma'am, sorry. You were the boss, you
 9 know what was going on at the company. Did you know
 10 of any way that the company could have paid a
 11 hundred and fifty thousand dollars to you without
 12 harming the company given the state it was in at
 13 that time?
 14 **A According to -- no, I don't think the company was**
 15 **going to be harmed.**
 16 **And this is what was told to me, that**
 17 **Co-Op Optical was doing quite well by me not**
 18 **working. That was told to me directly by Ted**
 19 **Winiarski. Without my salary they were doing even**
 20 **better.**
 21 **That was told to me also by Marc Stepp and**
 22 **that things were turning around and everybody was on**
 23 **deck and they were making progress.**
 24 **So it showed that they had, they had the**
 25 **money.**

Page 295

1 **Q** Oh, based on those comments you think Co-Op had the
 2 money to do that, is that right?
 3 **A They were all glowing comments.**
 4 **Q** Okay, all right. Anyone ever tell you -- never
 5 mind.
 6 **A And they told me -- nothing.**
 7 **Q** And they told you what?
 8 **A They told me it was best for me not to be there**
 9 **while they can collect salary so they've been**
 10 **collecting the salary and saving money off of me and**
 11 **the other executives that were let go for a long**
 12 **time.**
 13 **The board members also were always paid,**
 14 **they never thought about it, they always raised**
 15 **their rates per meeting.**
 16 **Q** Okay. Have you told me everything today in support
 17 of your claim that you've been defamed by Co-Op?
 18 Everything you can think of?
 19 **A Yes.**
 20 **Q** Okay. Have you told me all the bases for your
 21 belief that you were fired because you are a woman?
 22 **A Yes, to my knowledge.**
 23 **Q** Okay. Have you told me everything on which you base
 24 your claim that you were treated in a discriminatory
 25 fashion as a woman while you were at Co-Op?

Page 296

1 **A Yes.**
 2 **Q** Okay. And have you told me everything on which you
 3 believe or base your claim that you were fired
 4 because you took FMLA leave?
 5 **A Yes.**
 6 **Q** Okay. Was there something in your mind -- well, let
 7 me ask, how I ask this.
 8 If you had taken a vacation for the month
 9 of February and March, just taken, say, all kinds of
 10 vacation, do you think you would have been treated
 11 differently by Mr. Stepp and Mr. Murphy than if you
 12 took an FMLA leave?
 13 **MR. SWANSON:** Objection, hypothetical, no basis
 14 in fact, no foundation.
 15 **MS. CAULEY:** Okay.
 16 **MR. SWANSON:** And calls for speculation.
 17 **MS. CAULEY:** Okay.
 18 **WITNESS:** I was going to say the same thing,
 19 that's speculating to me.
 20 **BY MS. CAULEY:**
 21 **Q** Okay. Well, you said that Mr. Stepp said, well,
 22 you're not here?
 23 **A Yeah.**
 24 **Q** So if you went there because of a vacation as
 25 opposed to being on FMLA leave, would that have been

Page 297

1 any different?
 2 **MR. SWANSON:** Objection, calls for speculation,
 3 all the same reasons.
 4 **BY MS. CAULEY:**
 5 **Q** Go ahead.
 6 **WITNESS:** Answer?
 7 **MR. SWANSON:** You can answer it if you can.
 8 **WITNESS:** I would never take a two-month
 9 vacation.
 10 **BY MS. CAULEY:**
 11 **Q** I didn't ask that.
 12 **A I know but I'm telling you.**
 13 **Q** I said assume for purposes of the question that
 14 you're on a vacation and you're not there.
 15 **A If I'd have, if I've taken a two-month vacation, I**
 16 **don't know what they would have done. Still spec, I**
 17 **don't know.**
 18 **Q** Was it your belief that you could not be terminated
 19 from your -- you could not legally be terminated
 20 from your position while you were on FMLA leave?
 21 Was it your belief at the time you took the leave?
 22 **A I've learned more about that since then. I didn't,**
 23 **I didn't know exactly, no.**
 24 **Q** But at the time that you took the leave, was it your
 25 belief that, well, I'm on leave, I can't be fired?

Page 298

1 A No, I didn't know that.
 2 Q You didn't know that?
 3 A No.
 4 Q Okay. Do you believe it now?
 5 A Yeah, now I do, now that I went on the Internet and
 6 found a lot of information.
 7 Q It says under no circumstances can you be terminated
 8 while you're on FMLA leave?
 9 A That's not what I read on the Internet.
 10 Q Oh. So do you now understand that there are
 11 circumstances under which you could be terminated?
 12 Because you learned this from the Internet, I mean.
 13 Did you learn that there were
 14 circumstances under which you could be terminated
 15 while you're on FMLA leave?
 16 A I don't remember.
 17 Q Okay.
 18 MR. SWANSON: Counsel, it's 5:30, I believe you
 19 have exhausted your time.
 20 (Whereupon an off-the-record discussion was
 21 held.)
 22 (Document Marked for Identification as
 23 Defendant's Exhibit No. 31)
 24 BY MS. CAULEY:
 25 Q Do you recognize -- now, this is a very large

Page 299

1 document.
 2 A Uh-huh.
 3 Q And it goes for many pages and I can't even tell you
 4 the exact number. Well, it goes from 1408
 5 consecutively to 1468 which makes it a sixty-page
 6 document by, sixty-one, sixty-page by my count.
 7 A Uh-huh.
 8 Q Do you recognize this document?
 9 A Yes.
 10 Q As a whole?
 11 A Yes.
 12 Q Okay. And is this a document that you prepared or
 13 that was prepared at your direction?
 14 A It was prepared at my direction.
 15 Q Did you prepare any parts of it yourself?
 16 A I wrote it and I had someone type it.
 17 Q You wrote what parts of it?
 18 A The entire thing.
 19 Q You wrote all the exhibits as well?
 20 A Oh, no, I didn't write the exhibits, I just --
 21 Q Okay. What did you write, pages what through what?
 22 A I answered the questions from pages 1408 through
 23 page 1412.
 24 Q Okay. And then you prepared -- did you prepare the
 25 exhibits to be attached?

Page 300

1 A No, I had Matt do that.
 2 Q Okay. To whom was this document given?
 3 A Marc Stepp and also to the State of Michigan.
 4 Q When was it --
 5 A The department of OFIR.
 6 Q When was it given to the State of Michigan
 7 department of OFIR?
 8 A We had a meeting, I'm not sure of the exact date.
 9 This is when they came, December --
 10 Q If I told you it was --
 11 A 7th I think or 8th, I'm not, I mean, not December,
 12 this is --
 13 Q I believe it was February 23rd but --
 14 A You probably are right. I'm sorry.
 15 Q I think the records will show when the meeting was.
 16 To help you out, I'll tell you I believe it was --
 17 A Can I put 23rd on here if you don't mind?
 18 Q No, you can't write on that, no, that's --
 19 A Oh, I can't, I can't write on this?
 20 Q Not on that exhibit, that's an original.
 21 A Okay.
 22 Q I mean, it's a marked one. But you can write on a
 23 piece of paper, I mean, write on a napkin, there you
 24 go.
 25 February 23rd, I believe that to be the

Page 301

1 date and I'm not trying to mislead you, I think
 2 that's right. If the records show that it's
 3 different then we'll certainly amend the testimony
 4 accordingly.
 5 But why did you give this, well, first of
 6 all, why did you prepare this document?
 7 A I was instructed to do this by Marc Stepp.
 8 Q And what did he say you had to do?
 9 A He said he would like for my, he wanted my answers
 10 on this. This was the questions of charging me of
 11 certain things so he wanted my, the investigative
 12 committee requested that I respond to the executive
 13 summary statements.
 14 Q Okay. And who made the decision of --
 15 A And provide proof.
 16 Q On each of these responses, right?
 17 A Yes, ma'am.
 18 Q Okay. And who made the decision to whom it was
 19 going to be given?
 20 A Marc Stepp and he wanted me to have a copy for each
 21 board member.
 22 Q Okay. Did he also direct you to give a copy of all
 23 of this to the State of Michigan?
 24 A He gave a copy of it to the State of Michigan.
 25 Q Okay. Did you also make an oral presentation on

<p style="text-align: center;">Page 302</p> <p>1 that meeting which we believe was February 23, 2010</p> <p>2 with the State of Michigan about the subject matter</p> <p>3 of Exhibit 31?</p> <p>4 A Yes.</p> <p>5 Q And what, how, what was the nature of that oral</p> <p>6 presentation? Did you read your --</p> <p>7 A Yes.</p> <p>8 Q You read the letter. Did you refer to any of the</p> <p>9 attachments as you read the letter?</p> <p>10 A They received it, we had a Power Point, they</p> <p>11 received this, there was a couple of questions from</p> <p>12 some of the statements on here and then they would</p> <p>13 just look at them and there was no comment from the</p> <p>14 State of Michigan.</p> <p>15 Q Okay. How long did your presentation take regarding</p> <p>16 this document, not about anything else?</p> <p>17 A Less than twenty minutes.</p> <p>18 Q Okay. And who -- did anyone direct you to read this</p> <p>19 or did they just tell you to, you know, deal with it</p> <p>20 or address it or answer the questions? How were you</p> <p>21 directed?</p> <p>22 A Kind of like what you're doing. They asked, they</p> <p>23 may ask a couple of questions through here.</p> <p>24 For instance, they may have asked a</p> <p>25 question on number two and wanted me to elaborate a</p>	<p style="text-align: center;">Page 304</p> <p>1 sense of where Co-Op was right now, right?</p> <p>2 A Exactly.</p> <p>3 Q Okay. It wasn't to rebut Andy Broder's letter,</p> <p>4 right? That wasn't the intent of the Power Point?</p> <p>5 A No, no, no.</p> <p>6 Q Am I right?</p> <p>7 A It was not, you're correct.</p> <p>8 Q Okay. So you were told to do the Power Point</p> <p>9 because it's quick to give the State an overview of</p> <p>10 how things were at Co-Op, right?</p> <p>11 A Correct.</p> <p>12 Q Were you told to read this letter, pages, the --</p> <p>13 A No.</p> <p>14 Q The, you know, 1408 through 1412, okay, the answer</p> <p>15 is no. It was your choice to read the letter to</p> <p>16 OFIR, is that correct?</p> <p>17 A If I chose to, yes, but I didn't read this, I didn't</p> <p>18 read the entire thing.</p> <p>19 Q Oh. You testified earlier that you read it to them.</p> <p>20 A If I did that, I made an error.</p> <p>21 Q What did you read to them?</p> <p>22 A I read the Power Point.</p> <p>23 Q You didn't read anything in this letter?</p> <p>24 A No.</p> <p>25 Q Did you say anything to OFIR addressing the</p>
<p style="text-align: center;">Page 303</p> <p>1 little bit more on that.</p> <p>2 Q Okay. I thought you said nobody had any questions</p> <p>3 from OFIR?</p> <p>4 A Well, they made comments, there weren't questions.</p> <p>5 Q Okay.</p> <p>6 A They said, elaborate on like number two. I'm not,</p> <p>7 I'm guessing but I'm just saying they --</p> <p>8 Q Well, I'm going to ask you not to guess, I'd like</p> <p>9 you to testify as to what you remember.</p> <p>10 A Okay. I don't remember any questions.</p> <p>11 Q Okay. Do you remember, did, like did Marc Stepp or</p> <p>12 Ray Murphy tell you that you should read what you</p> <p>13 gave me to OFIR?</p> <p>14 A No, they told me to use Power Point because it was</p> <p>15 quicker.</p> <p>16 Q Okay. Do you have a Power Point that covers pages</p> <p>17 one through five?</p> <p>18 A The Power Point is in the possession of Co-Op</p> <p>19 Optical's offices, I don't have it with me.</p> <p>20 Q Is it a Power Point that covers your rebuttal to Mr.</p> <p>21 Broder's executive summary?</p> <p>22 A No, not totally.</p> <p>23 Q No?</p> <p>24 A It touches on some of this but not everything.</p> <p>25 Q The Power Point was to sort of give the State a</p>	<p style="text-align: center;">Page 305</p> <p>1 individual points in the letter, your rebuttal to</p> <p>2 the executive summary of Broder?</p> <p>3 A There's something in here about Gerber, I remember</p> <p>4 that. When Mr. Gerber came in and it -- and I was</p> <p>5 telling what Mr. Gerber stated. If I can, trying to</p> <p>6 find it.</p> <p>7 Q I see his name mentioned on page two under number</p> <p>8 four, the third paragraph. I'm just telling you</p> <p>9 where I see his name pop out if that helps. It's</p> <p>10 the only place I've seen it so far.</p> <p>11 A That might be it.</p> <p>12 Q Okay. Let me ask you a couple questions if I could,</p> <p>13 just about number four.</p> <p>14 A Sure, uh-huh.</p> <p>15 Q There was a statement that says the board of</p> <p>16 directors has not been told of the financial</p> <p>17 circumstances. The CEO has prohibited management</p> <p>18 from disclosing the facts and threatened to</p> <p>19 discipline anyone who discusses the matter.</p> <p>20 What part of that is not the truth?</p> <p>21 A That's true.</p> <p>22 Q That's all true?</p> <p>23 A Uh-huh.</p> <p>24 Q So when you rebut it you say this is not true?</p> <p>25 A No. I'm referring to the memo as true. It says the</p>

Page 306

1 Board of Directors has been -- no, the Board of
 2 Directors has not been told of the financial
 3 circumstances.
 4 Q Okay, let's stop there, just one sentence.
 5 Was that true as of December 8th when Mr.
 6 Broder wrote the letter that you're rebutting, was
 7 it, in fact, truthful that the Board of Directors
 8 had not been told of the financial circumstances of
 9 Co-Op?
 10 A We didn't have the financials at that time, in
 11 December, for year, year-end 2009. That's what was,
 12 that was told to me by the financial department.
 13 So I could not tell them exactly and the
 14 finance department was going up and down so we
 15 really didn't know what was going on.
 16 Q But well then, for whatever it is, it's a true
 17 statement, right? The Board of Directors had not
 18 been told of financial circumstances? You're saying
 19 it's because you didn't have them, the fact is they
 20 weren't told.
 21 A Yeah.
 22 Q The CEO has prohibited management from disclosing
 23 facts. Is that the truth?
 24 A That's true.
 25 Q Okay. And threatened to discipline anyone who

Page 307

1 discusses the matter, correct?
 2 A From the Gerber meeting, yes.
 3 Q Okay. Had you ever, prior to the Gerber meeting,
 4 had you ever told anyone in your executive staff
 5 that they should not disclose, not be talking to the
 6 Board or else they were going to be fired or words
 7 to the effect?
 8 A Disciplinary action is what I'm saying and
 9 disciplinary action does not necessarily always mean
 10 fired.
 11 I have not -- certain things that were
 12 confidential, that should be discussed only in the
 13 executive staff meetings I always stated, this is
 14 confidential it should not be discussed outside of
 15 these walls or those walls or disciplinary action
 16 could be, could, could occur.
 17 Q Okay.
 18 A So it's not the first time I've made that statement.
 19 Q Now you understood that the allegation, the Board of
 20 Directors has not been told of the financial
 21 circumstances, what that really referred to is that
 22 the Board of Directors had not been told of the
 23 December 1st OFIR meeting, is that right?
 24 A You're still on number four?
 25 Q Yes.

Page 308

1 A Well, we didn't know of the -- well, we knew Ted
 2 first told us that we were a hundred and thirty to a
 3 hundred and forty thousand dollars in deficit.
 4 So I'm not sure what you're trying to say.
 5 Q Okay. I'm asking you, when you were rebutting that
 6 statement, the Board of Directors has not been told
 7 of the financial circumstances, you understood that
 8 to mean the financial circumstances as revealed by
 9 OFIR at the December 1st meeting, isn't that
 10 correct?
 11 A Yes.
 12 Q Okay. But it was true, wasn't it? As of
 13 December 8th, that you had not told the Board of
 14 what had occurred at the OFIR meeting on December
 15 1st?
 16 A Well, because November 2009 it showed a profit
 17 income in the fourth, in the fourth quarter for
 18 Co-Op Optical. Mr. Gerber said that it was no, I
 19 mean, it was, he said -- excuse me.
 20 I'm reading from the second paragraph. I
 21 made the statement and followed up with the
 22 directive to prevent panic in the company, to let
 23 the Board of Directors know first.
 24 I felt that that -- officers, actually,
 25 Board and officers know first. That is the typical

Page 309

1 protocol.
 2 And also I felt that it was more of a
 3 positive meeting with Mr. Gerber than a negative
 4 meeting because he made so many suggestions to us.
 5 I made this statement because November
 6 2009 showed a profit income in the fourth quarter
 7 for Co-Op Optical. Mr. Gerber said that there was
 8 no need to come to Co-Op Optical.
 9 He stated that -- and this is what they
 10 were talking about, this is the paragraph, thank
 11 you, that I was speaking of.
 12 The fourth quarter that he has spoken to
 13 Ken Ross, however, Mr. Ross indicated to Mr. Gerber
 14 to visit Co-Op Optical anyway because he had already
 15 made previous arrangements.
 16 As you can see by sharing this with
 17 others, it would have caused unnecessary panic and
 18 chaos. Which it did.
 19 Q Ma'am, could you answer the question I asked?
 20 Wasn't it true that when you were
 21 rebutting this, you read that first sentence, the
 22 Board of Directors has not been told of the
 23 financial circumstances, to be referring to the fact
 24 that the Board had not been told of the OFIR meeting
 25 on December 1st? You understood that that's what

Page 310

1 they were alleging, correct?

2 A Yes.

3 Q And you said that wasn't true but, in fact, by

4 December 8th you hadn't told the Board about the

5 OFIR meeting of December 1st, isn't that correct?

6 A We're, we're having an --

7 Q Isn't that correct?

8 A Yes.

9 Q Okay. That's all I need to know.

10 A We're having an officers meeting.

11 Q I just need to know what's false about that. You

12 hadn't. You were going to tell them. You say you

13 were going to tell them but you didn't, you hadn't

14 by then.

15 So there was nothing false in that

16 statement, was there?

17 A No.

18 Q Okay. Now if everyone who was at that OFIR meeting

19 testified that you read this letter word for word to

20 everyone at OFIR, would you have any basis upon

21 which to dispute that?

22 A Yes. I did not do that.

23 Q You did not. Then everyone else would be lying if

24 they said you did read it word for word?

25 A That's right.

Page 311

1 Q Okay. Did anyone ever indicate to you that your

2 presentation to OFIR was an embarrassment to Co-Op

3 by going into all of these details, by attacking the

4 CFO and criticizing him in front of OFIR?

5 A I had no intentions of giving the State of Michigan

6 these letters. Marc Stepp did that.

7 Q Ma'am, that wasn't my question.

8 I asked if anyone told you that you had

9 embarrassed Co-Op by doing that kind of a verbal

10 presentation to OFIR at that meeting. Did anyone

11 ever tell you that?

12 A You mean for the Power Point? Or this?

13 Q The presentation regarding the rebuttal to the

14 Broder letter.

15 A No one told me that. No one at all.

16 Q And you think it was perfectly appropriate for you

17 to verbally attack the CFO who was sitting in that

18 meeting, in front of OFIR at that time and at that

19 meeting, given the circumstances of the company?

20 A Sure he said there was no need for me.

21 Q He said that in that meeting to OFIR?

22 A No, he said it to the Board of Directors.

23 Q Ma'am, I'm asking you, you're here fighting for the

24 life of Co-Op in front of OFIR, right? You're

25 trying to give them, put the best foot forward for

Page 312

1 the company, is that fair to say?

2 A Uh-huh.

3 Q Is that a yes?

4 A Yes.

5 Q Okay. This is your opportunity to make Co-Op look

6 good, is that right?

7 A Yes.

8 Q Okay. And instead, you criticize -- or did you feel

9 that criticizing your CFO in the meeting and going

10 into detail and every little point in this multi-

11 page, five-page letter, you think that put Co-Op in

12 a good light in front of OFIR?

13 A I think it was true. You know --

14 Q That wasn't my question, ma'am. I asked if the way

15 in which that you presented this --

16 A Well, the way you're asking is not right, I'm sorry,

17 I don't have an answer for you and the only thing I

18 can say is that it was not my intention for the

19 State of Michigan to receive this document.

20 This document was handed by the Board of

21 Directors. The Board of Directors can do whatever

22 they want to.

23 I did not tell the Board of Directors to

24 make sure that OFIR had a copy of this document and

25 anyone that says anything any different is a lie.

Page 313

1 Q I'm asking you, ma'am, about your verbal

2 presentation.

3 A I didn't have a verbal presentation, I had a Power

4 Point and I did not read this document as I have

5 told you before.

6 Q So you said nothing about what's in this document to

7 OFIR?

8 A No. Only -- Gerber said one, only thing we touched

9 on was number four. And I did not, as I said, give

10 this information to the -- this is to Marc Stepp, it

11 tells you who it's from, the investigation

12 committee.

13 Q Okay.

14 A Not the State of Michigan.

15 Q And you didn't read it or talk about it in detail to

16 OFIR because --

17 A No.

18 Q Excuse me, ma'am. Because you thought it was

19 inappropriate to do so, is that right? It wouldn't

20 have been right for you to do that, isn't that fair

21 to say?

22 A Right, I wouldn't do that.

23 Q You wouldn't have done it, it would have been

24 unprofessional?

25 A It's not my character.

Page 314

- 1 Q It wouldn't have been in the best interest of Co-Op,
2 fair to say?
- 3 A You're putting words in my mouth. It's not my
4 character.
- 5 Q Is it fair to say that it would not have been in the
6 best interest of Co-Op to do a big long verbal
7 presentation of this rebuttal?
- 8 A It's fair to say it would be not in my best interest
9 to give, to do a presentation like this to for Co-Op
10 because that is not my character.
- 11 Q Okay, that's good enough.
- 12 Now it's your testimony that Mr. Gerber
13 said on December 1st that there was no need for him
14 to come to Co-Op, correct?
- 15 A Yes.
- 16 Q Okay. How many times after December 1st did he come
17 back to Co-Op?
- 18 A Well, they came out a couple of more times. The
19 embarrassment of the company is when Charles and
20 Nicole and Dr. -- Charles, Nicole and Ted or whoever
21 went to the State to Lansing. That was the
22 embarrassment of Co-Op Optical where you don't say
23 anything about what they said about the CEO.
- 24 Q So Mr. Gerber came --
- 25 A And the Benson case.

Page 315

- 1 Q Mr. Gerber came back twice is your testimony? After
2 December 1st?
- 3 A No, I think he came back once or twice, I'm not
4 sure.
- 5 Q Okay. Did you come to learn that, in fact, there
6 was good reason for Mr. Gerber to come to Co-Op?
- 7 A No.
- 8 Q Okay. Before whom did Mr. Gerber say that there was
9 no need for him to come to Co-Op? Was it just to
10 you or was it --
- 11 A It was to Ted, Larry Gardiner, Matt and myself.
- 12 Q Okay. Everyone at that meeting?
- 13 A Everyone at the December 1st meeting.
- 14 Q Gotcha, okay, good. Did you ever talk to anyone at
15 OFIR about the CFO buying steaks and seafood and
16 chicken and hotdogs and side dishes and fancy
17 desserts for everyone at Co-Op and using Co-Op money
18 for that? Did you ever tell?
- 19 A No, I did not tell them that. That's in this report
20 here for Marc Stepp.
- 21 Q Okay. Oh, but that --
- 22 A That's when we had a retreat.
- 23 Q But you never said that out loud to OFIR?
- 24 A No.
- 25 Q Okay.

Page 316

- 1 A No, that was over a three thousand dollar bill.
- 2 Q Well, it says here that you never got the --
- 3 A No, we found, we, yeah.
- 4 Q Never got the credit cards from that.
- 5 A Never got the credit, we found but we, we seen it,
6 it was, it, well the -- Armida told me at that time
7 that I think it was twenty, about twenty-seven
8 hundred dollars with gratuity for Boat Works and
9 then I don't know, I really don't know what the bill
10 was for the home picnic but that was a lot of food
11 there.
- 12 Q In fact --
- 13 A So I don't know.
- 14 Q In fact, Co-Op, you never found any evidence that
15 Co-Op was ever charged for that meeting at Mr.
16 Winiarski's home, isn't that right? That Mr.
17 Winiarski paid for it?
- 18 A Good for him.
- 19 Q So you're accusing, you're telling people in this
20 letter --
- 21 A He has a tendency to charge things to Co-Op so I'm
22 just assuming.
- 23 Q Excuse me, ma'am. You're telling people in this
24 letter that he charged all this stuff to Co-Op when
25 you had no evidence to support the fact that he

Page 317

- 1 charged it at all for this meal at his home, isn't
2 that right?
- 3 A Right. Just like they tell you that I was taking
4 money from Amway and they had no evidence that I was
5 taking money or commissions from Amway.
- 6 Q I get it. So if somebody else lies it's okay for
7 the CEO to lie?
- 8 A No, I'm not lying. This is not a lie, this is --
- 9 Q That's not a lie?
- 10 A This is not a lie. This is -- I said to this day I
11 do not know how much that cost. With what he had
12 there, Ted usually charges everything on his credit
13 card.
- 14 Q It was your clear implication that Mr. Winiarski had
15 paid for this with Co-Op money, wasn't it? That's
16 what you were --
- 17 A That's what I thought.
- 18 Q -- trying to communicate here?
- 19 A That's what I thought and that's what I wrote down.
- 20 Q Okay. You thought it in good faith?
- 21 A Yes.
- 22 Q But Mr. Benson didn't think it was in good faith if
23 he said you hadn't paid for something did he?
- 24 You're saying he was just flat out lying when he did
25 it?

Page 318

- 1 A When Mr. Benson paid --
- 2 Q Accused you of misusing the credit card and it
- 3 turned out not to be true maybe in some cases?
- 4 A They have been planning this for two years.
- 5 Q But he just lied, you just made a good-faith
- 6 allegation, is that right, is that the difference?
- 7 You don't have to answer that.
- 8 A Thank you.
- 9 Q Did you ever send an email around with a recipe for
- 10 a chicken, for a turkey at Thanksgiving that had a
- 11 picture of a turkey with two halves of lemons
- 12 sticking under the skin so that it looked like the
- 13 turkey had breasts?
- 14 A What? I don't even cook.
- 15 Q I didn't ask if you cooked, ma'am. I'm sorry,
- 16 that's the --
- 17 A I don't even know about a turkey.
- 18 Q -- problem I'm having with you answering questions.
- 19 I just want an answer to the question.
- 20 Did you ever send an email around with a
- 21 phoney, jokey kind of recipe for a turkey that said,
- 22 all written out that says here --
- 23 A I would have to see it.
- 24 Q Could I finish my question or not?
- 25 A Go ahead.

Page 319

- 1 Q That explained how to cut a lemon in half and insert
- 2 it under the skin of the breast and then the picture
- 3 showed a turkey with women's breasts or some -- you
- 4 never sent that around?
- 5 A Not to my knowledge.
- 6 Q You wouldn't have done that, it's inappropriate?
- 7 A I don't know, I have four pictures here that I sent
- 8 around that I wasn't aware of so I'm not going to
- 9 say anything. I'm really not, I don't know.
- 10 Q Okay.
- 11 MS. CAULEY: Subject to the possibility of
- 12 having to come back to discuss mitigation,
- 13 mitigation issues only, I am through.
- 14 MR. SWANSON: Okay. I have a few questions for
- 15 the witness.
- 16 MS. CAULEY: And subject to redirect, of
- 17 course. Go ahead.
- 18 EXAMINATION
- 19 BY MR. SWANSON:
- 20 Q Prior to January 2010, had you ever received any
- 21 sort of performance reviews?
- 22 A Yes.
- 23 Q How were those reviews?
- 24 A They were glowing, all of them have an excellent.
- 25 Q And from whom did you get those reviews?

Page 320

- 1 A They were not in writing but I received them from
- 2 the Board.
- 3 Q And who on the board?
- 4 A Janna Garrison, Marc Stepp, John Trohimczyk, Letha
- 5 Lardy or Letha Kelly. I'm not sure if it's Kelly or
- 6 Lardy.
- 7 Q Were you ever advised prior to January 2010 that you
- 8 were being placed on any sort of performance
- 9 improvement program because your performance was
- 10 inadequate or unsatisfactory?
- 11 A No.
- 12 Q Were you ever told by the Board that you were in
- 13 jeopardy of being fired because of unsatisfactory
- 14 performance prior to January 2010?
- 15 A No.
- 16 Q You've looked at Exhibit 31 and the allegations that
- 17 were being made here. Was there any final
- 18 resolution to all this?
- 19 A An investigation was conducted and I was found that
- 20 things were not true, that what I was accused of.
- 21 Q Was there ever -- what was the final finding, if you
- 22 can recall?
- 23 A That I pay a hundred and thirty-nine dollars and
- 24 sixty cent for going to the Comfort Inn to do Co-Op
- 25 Optical's work.

Page 321

- 1 And I paid the hundred and thirty-nine
- 2 dollars and sixty cent on a credit card.
- 3 Q Do you recall approximately when that was, when you
- 4 paid that?
- 5 A I paid it the same day of the meeting.
- 6 Q And what was the date of the meeting approximately?
- 7 A February 23rd I think is what she, you, she
- 8 indicated.
- 9 Q And you were fired when?
- 10 A I was fired March 18th or 19th.
- 11 Q 2010?
- 12 A Of 2010.
- 13 Q Okay. Now, we've had some discussion about policies
- 14 concerning use of credit cards.
- 15 Are you aware of any board members using
- 16 corporate credit cards for personal reasons?
- 17 A Yes.
- 18 Q Okay. And who?
- 19 A Well, Marc Stepp would have us purchase football
- 20 tickets for his neighbors for the Loins game, for
- 21 the black football association.
- 22 We would buy tables for the Bernard Choral
- 23 group that we were not a part of, it was a singing
- 24 group.
- 25 And also for the, I think it's a black

Page 322

1 football team, too. Grambling and another football
 2 team that comes and plays. He wanted tickets for
 3 that, he would ask for them every year and I would
 4 put it on a credit card.
 5 Q What position did Marc Stepp hold on the board as of
 6 2010?
 7 A As of 2010 I think he's the assistant chairman.
 8 Q He was head of personnel and compensation as well,
 9 those committees?
 10 A Yes, he still is.
 11 Q Did he ever serve as chairperson?
 12 A Both, both committees.
 13 Q Did he ever serve as chairperson of the board?
 14 A No.
 15 Q There was some discussion about receiving
 16 gratuities.
 17 Did the board members ever receive
 18 freebies from vendors, suppliers?
 19 A They received glasses, a lot of glasses. They would
 20 have their kids that were not their dependents to
 21 receive glasses. They would ask me to provide
 22 glasses to other people, friends at no charge and I
 23 wound up having to write them off.
 24 Q Which board members were those?
 25 A Marc, Letha, Bernie, Blair, his daughter wanted

Page 323

1 contact lenses, that was the difference. And that
 2 was it that I can remember.
 3 Q Mr. Murphy ever receive --
 4 A And Ray Murphy.
 5 Q Okay. There was some discussion about financial
 6 records and other documents that were produced by
 7 you pursuant to a document request by defendants in
 8 this case.
 9 Did you ever work at home?
 10 A Yes.
 11 Q Were you working at home at all in 2010?
 12 A Yes.
 13 Q And how were you able to work at home in terms of
 14 getting access to records?
 15 A Through the computer.
 16 Q You had a home computer?
 17 A Yes.
 18 Q Did the Board, do you know if the Board understood
 19 or realized that while you were on this medical
 20 leave you were doing work at home?
 21 MS. CAULEY: Objection foundation.
 22 WITNESS: Yes, because this document here is
 23 February 17, 2010.
 24 BY MR. SWANSON:
 25 Q That's Exhibit 31?

Page 324

1 A Yes, Exhibit 31.
 2 Q And who on the Board do you believe understood you
 3 were doing work at home?
 4 A None of them, they didn't really care.
 5 Q But who on the Board, if anyone on the Board, do you
 6 know asked you to do work while you were on the
 7 leave?
 8 A Marc.
 9 Q Marc Stepp?
 10 A Yes. Mostly Marc and Blair McGowan.
 11 Q Okay. And Exhibit 31 would be an example of a
 12 project you put together while working at home?
 13 A Yes.
 14 Q And how did you obtain the documents to put together
 15 Exhibit 31?
 16 A I would put them together and I would have either
 17 Matt look for them or ask him for copies and he
 18 would and I would get the copies off of the
 19 computer.
 20 Q So you would get these various records by way of
 21 computers in your home?
 22 A And then sometimes I would walk into the office and
 23 pick them up.
 24 Q Okay.
 25 MR. SWANSON: I don't have any further

Page 325

1 questions.
 2 REEXAMINATION
 3 BY MS. CAULEY:
 4 Q Weren't you told while you were on leave to return
 5 all records that you had regarding Co-Op?
 6 A Uh-huh.
 7 Q Okay. And you didn't do that, did you?
 8 A I would have been insubordinate with Marc Stepp.
 9 This document is dated February 17, 2010. If I
 10 didn't answer this I would have definitely been
 11 fired if I told him I'm on medical leave, I'm not
 12 going to do this. I would have definitely be fired.
 13 Q Okay. Ma'am, that wasn't my question.
 14 A I know but you need some explanation sometimes.
 15 Q I said, weren't you, in fact, told to return all
 16 documents?
 17 A I did. By computer.
 18 Q Well, you didn't return the documents that have been
 19 produced in this case, did you?
 20 A I don't know, I don't know what you have in that
 21 case.
 22 Q Well, financial reports, minutes of some meetings,
 23 that document.
 24 A Those, those documents --
 25 Q You didn't return all those.

Page 326

1 A Those documents are mine. They are, just like every
 2 board member that has been on the board or has left
 3 the board, no one has ever returned documents back
 4 to Co-Op Optical. Not even Artis Thomas.
 5 Q And on what do you base your belief that you were
 6 told that the final resolution was that nothing in
 7 that was true --
 8 A They said --
 9 Q -- nothing in the Broder letter was true?
 10 A There should be -- pardon me?
 11 Q Are you -- maybe I'd better ask it more clearly.
 12 Are you of the belief that the
 13 investigative committee made a finding that nothing
 14 that was alleged against you in the Broder letter
 15 was true?
 16 A That was my understanding.
 17 Q Okay. Even though you've admitted to violating the
 18 company credit card policy, right? Didn't, in fact,
 19 the Board find that you violated the credit card
 20 policy?
 21 A Yes.
 22 Q Okay.
 23 A We violated --
 24 Q And that was --
 25 A But I was, but also they, in this -- yes.

Page 327

1 Q Okay. And that was --
 2 A In answer to your question.
 3 Q -- one of the allegations against you in the Broder
 4 letter, wasn't it?
 5 A Yes. So did everybody else.
 6 Q So that, in fact, was found -- he'll introduce it.
 7 That, in fact, was found to be true,
 8 wasn't it?
 9 A Uh-huh.
 10 Q Is that a yes?
 11 A That's a yes.
 12 Q So you can't sit here and say that there was a final
 13 determination that you did nothing wrong, isn't that
 14 correct?
 15 There was a finding that you did something
 16 wrong, at least you violated the credit card policy
 17 of the company, at least you hadn't informed the
 18 Board by December 8th of what had occurred at the
 19 December 1st meeting.
 20 A Then everyone should be fired.
 21 Q Ma'am, that's not my question. I'm asking you --
 22 MR. SWANSON: Well, you're asking multiple
 23 questions, actually.
 24 WITNESS: Everybody should be fired.
 25 BY MS. CAULEY:

Page 328

1 Q I'm asking you, I mean, you sit here and say that
 2 you were found to have been guilty of nothing. That
 3 isn't true, is it?
 4 MR. SWANSON: She -- excuse me.
 5 WITNESS: I didn't say that.
 6 BY MS. CAULEY:
 7 Q Okay. Well, what did you say? You told us that --
 8 you were told that nothing in the letter was true.
 9 A That the investigation had been conducted.
 10 Q Uh-huh.
 11 A And I told -- and the credit card, they said that
 12 since I paid it back, since I paid them back --
 13 Q Okay.
 14 A -- that the only thing that I owe and it should be
 15 on there is a hundred and thirty-nine dollars.
 16 Q Okay.
 17 A It was between that and the spa bill that I had for
 18 about six hundred and something dollars.
 19 Q And that goes to the allegations in the Broder
 20 letter having to do with you not paying personal
 21 money back to Co-Op, correct? That deals with --
 22 A Not paying?
 23 Q Yeah. It deals with the allegation that you hadn't
 24 paid some personal money back, right?
 25 A Yes, a hundred and thirty-nine dollars.

Page 329

1 Q And besides the finding there that there was just
 2 some, a little bit that you hadn't paid back, you
 3 were exonerate almost for all of that, correct?
 4 A Correct.
 5 Q Okay. That was one of the allegations in the Broder
 6 letter, correct?
 7 A Correct.
 8 Q Were you ever told that the Board made a finding
 9 that none of the other allegations were true?
 10 Set aside just the credit card one, I
 11 understand what you're saying about that.
 12 A Okay.
 13 Q Now how about all the other allegations? Were you
 14 ever told that those, that the Board found that
 15 those weren't true?
 16 A I don't, something was said, I don't remember what
 17 was said. I remember being under a great amount of
 18 distress. In fact, I remember crying, my head
 19 started hurting, my joints started hurting, I left
 20 the office in the room and went into the other room.
 21 I remember someone saying take a break and
 22 that's about it.
 23 My mind is blank. I don't remember.
 24 Q Okay, that's fine.
 25 MS. CAULEY: Thanks. That's all.

Page 330

1 MR. SWANSON: Well, so we have a complete
 2 record, why don't we just mark this as Exhibit 32.
 3 MS. CAULEY: Can I have a copy or do you have a
 4 number?
 5 MR. SWANSON: Yeah.
 6 (Document Marked for Identification as
 7 Plaintiff's Exhibit No. 32)
 8 REEXAMINATION
 9 BY MR. SWANSON:
 10 Q I may show the witness Exhibit 32. Have you seen
 11 that before?
 12 MS. CAULEY: Can I see it?
 13 MR. SWANSON: Yeah.
 14 MS. CAULEY: Because I don't know what you're
 15 looking at. Oh, yeah.
 16 MR. SWANSON: I'm sure you've seen it.
 17 MS. CAULEY: Yeah. What's the number at the
 18 bottom, please?
 19 MR. SWANSON: Confidential 1165 Smith.
 20 MS. CAULEY: Thanks.
 21 BY MR. SWANSON:
 22 Q Have you seen that before?
 23 A Yes.
 24 Q And to your knowledge, is that a document that you
 25 received from the Board as to its investigation?

Page 332

CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

)

COUNTY OF MACOMB)

I certify that this transcript, consisting of three
 hundred and thirty-two pages, is a complete, true and
 correct record of the testimony of JACQUELINE SMITH, held
 in this case on Wednesday, December 15, 2010.

I also certify that prior to taking this deposition,
 JACQUELINE SMITH was duly sworn to tell the truth.

I also certify that I am not a relative or employee
 of or an attorney for a party; or a relative or employee

of an attorney for a party; or financially interested in

the action.


 JUDY JETTKE VANDENBOSSCHE CSR-1398

309 S. Gratiot #2

Mt. Clemens, Michigan 48043

Page 331

1 A Yes.
 2 Q And that document refers only to payment of a bill
 3 for Comfort Suites for a hundred and thirty-nine
 4 dollars and forty-six cents?
 5 A Yes.
 6 Q And you paid that?
 7 A Yes, I did.
 8 MR. SWANSON: I don't have any further
 9 questions.
 10 MS. CAULEY: Could I see the document, please,
 11 if I may?
 12 REEXAMINATION
 13 BY MS. CAULEY:
 14 Q It's also accurate to say that Exhibit No. 32 does
 15 not address any of the other allegations in the
 16 Broder letter other than the misuse of the credit
 17 card, is that correct?
 18 A Yes.
 19 Q Okay.
 20 MS. CAULEY: Done.
 21 MR. SWANSON: We're done.
 22 (Deposition concluded at 6:22 p.m.)
 23
 24
 25